European Commission

Evaluation of Directive 2002/65/EC on Distance Marketing of Consumer Financial Services

Final Report

Written by ICF Consulting Limited
January 2020

ICF

Justice and Consumers

EUROPEAN COMMISSION

Directorate-General for Justice and Consumers

Directorate E - Consumers

Unit E.1 – Consumer Policy

European Commission

B-1049 Brussels

Evaluation of Directive 2002/65/EC on Distance Marketing of Consumer Financial Services

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List of abbreviations

BEUC	Bureau Européen des Unions de Consommateurs (The European Consumer Organisation)
CCD	Consumer Credit Directive
CWA	Credit Worthiness Assessment
DG FISMA	Directorate-General for Financial Stability, Financial Services and Capital Markets Union
DG JUST	Directorate-General Justice and Consumers
DMFSD	Distance Marketing of Consumer Financial Services
EBA	European Banking Authority
EBIC	European Banking Industry Committee
EC	European Commission
ECB	European Central Bank
ECD	e-Commerce Directive
ECJ	European Court of Justice
ECRI	European Credit Research Institute
EEC	European Economic Community
EIOPA	European Insurance and Occupational Pensions Authority
EPD	e-Privacy Directive
ESMA	European Securities and Markets Authority
EU	European Union
EUR	Euro
FIN-NET	Financial Dispute Resolution Network
FSUG	Financial Services User Group
GDPR	General Data Protection Regulation
HCC	High Commercial Court
IDD	Insurance Distribution Directive
MCD	Mortgage Credit Directive
MFI	Monetary Financial Institutions
OPC	Open Public Consultation
PSD I	Payment Services Directive I
PSD II	Payment Services Directive II
UCPD	Unfair Commercial Practices Directive
UCTD	Unfair Contract Terms Directive
UK	United Kingdom

Key concepts and definitions[1]

Annual percentage rate of charge (APR) – *the total cost of the credit to the consumer, expressed as an annual percentage of the total amount of credit.*

Bank – *A financial institution one of whose principal activities is to take deposits and borrow with the objective of lending and investing and which is within the scope of banking or similar legislation*.[2]

Behavioural biases – *individuals' choices may vary systematically according to specific aspects of the decisions they face and/or the context in which their decisions are made. In such cases, market forces will not achieve an efficient outcome*.[3]

Borrower – *a person, firm or institution that obtains a loan from a lender in order to finance consumption or investment*.[4]

Broker – *a person or a firm when it acts as an agent for a customer and charges the customer a commission for its services.*[5]

Chatbot – *a computer program that simulates human conversation through voice commands or text chats or both*.[6]

Cold calling – *a technique in which a salesperson contacts individuals who have not previously expressed interest in the offered products or services. Cold calling typically refers to solicitation by phone or telemarketing, but can also involve in-person visits, such as with door-to-door salespeople*.[7]

Comparison tools – *all digital content and applications developed to be used by consumers primarily to compare products and services online, irrespective of the device used (e.g. laptop, smartphone, tablet) or the parameter(s) on which the comparison is based (e.g. price, quality, user reviews)*.[8]

Consolidator website – websites that sell products or services from a variety of suppliers directly to consumers.

Consumer – a natural person who in a contract or transaction acts for purposes which are outside his trade, business or profession.

Consumer Credit – *loans granted to households, which in the case of these transactions are acting for purposes outside their business and profession. Mortgage loans for financing house building or buying (amongst others bridging loans) are excluded. It is the intention that consumer credit relates exclusively to credits used for buying goods and/or services which are consumed by the households individually*.[9]

Consumer detriment – *a measure of harm that consumers may experience when market outcomes fall short of their potential. Consumer detriment can be structural or personal.*[10]

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[1] Most of the definitions in this section were taken directly from the referenced sources (text is in italic).
[2] IASCF, Key term list; Commission Regulation (EC) No 1126/2008 (international accounting standards)
[3] European Commission, 2015. Better Regulation Toolbox [SWD (2015) 111].
[4] Collins Dictionary of Economics, 4th ed. 2005
[5] https://www.investopedia.com/terms/b/broker.asp
[6] https://www.investopedia.com/terms/c/chatbot.asp
[7] https://www.investopedia.com/terms/c/coldcalling.asp
[8] https://ec.europa.eu/info/sites/info/files/key_principles_for_comparison_tools_en.pdf
[9] Eurostat, "European System of Accounts - ESA 1995", Office for Official Publications of the European Communities, Luxembourg, 1996
[10] European Commission, 2015. Better Regulation Toolbox [SWD (2015) 111].

Cybercrime – *criminal acts that are committed online by using electronic communications networks and information systems*.[11]

Credit Agreement – *an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or other similar financial accommodation, except for agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for such services or goods for the duration of their provision by means of instalments.*[12]

Credit Card – *a card entitling the owner to use funds from the issuing company up to a certain limit. The holder of a credit card may use it to buy a good or service. When one does this, the issuing company effectively gives the card holder a loan for the amount of the good or service, which the holder is expected to repay*. [13]

Credit institution – *an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account.*[14]

Creditworthiness assessment – *evaluation of the prospect for the debt obligation resulting from the credit agreement to be met*.[15]

Cross-selling practice – *the practice of offering of an investment service together with another service or product as part of a package or as a condition for the same agreement or package*.[16]

Crowdfunding – *the practice of funding a project or venture by raising monetary contributions from a large number of people. It is often performed via internet-mediated registries that facilitate money collection for the borrower (lending) or issuer (equity)*.[17]

Cryptocurrencies – *a virtual currency that is secured by cryptography, which makes it nearly impossible to counterfeit or double-spend*.[18]

Digital literacy – *the ability to use digital technology, communication tools and/or networks appropriately to solve information problems in order to function in an information society*.[19]

Digital wallet or e-wallet – *an electronic device, website, software system, or database that facilitates commercial transactions by storing a consumer's credit card, shipping address, and other payment data*.[20]

Distance contract – *any contract concerning financial services concluded between a supplier and a consumer under an organised distance sales or service-provision scheme run by the supplier, who, for the purpose of that contract, makes exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded*.[21]

Durable medium – *any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a period of time*

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[11] https://ec.europa.eu/home-affairs/what-we-do/policies/cybercrime_en
[12] Consumer Credit Directive
[13] Farlex Financial Dictionary, 2012
[14] Regulation (EU) no 575/2013 of the European parliament and of the council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012
[15] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property
[16] 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
[17] European Banking Authority, Glossary for financial innovation
[18] https://www.investopedia.com/terms/c/cryptocurrency.asp
[19] Knobel, M. and Lankshear, C., 2006. Digital literacy and digital literacies: Policy, pedagogy and research considerations for education. *Nordic Journal of digital literacy*, *1*(01), pp.12-24.
[20] https://www.dictionary.com/browse/e-wallet
[21] Distance Marketing of Financial Services Directive

adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.[22]

Financial literacy – *capability of consumers and small business owners to understand retail financial products with a view to making informed financial decisions*.[23]

Financial service – *any service of a banking, credit, insurance, personal pension, investment or payment nature*.[24]

Fintech – *technologically enabled financial innovation that could result in new business models, applications, processes, or products with an associated material effect on financial markets and institutions and the provision of financial services*.[25]

Full harmonisation (maximum harmonisation) **–** *In the case of full harmonisation Member States must implement the EU measures but may not enact or retain any rules which depart from them*.[26]

Implementation – *the process of making sure that the provisions of EU legislation can be fully applied. For EU Directives, this is done via transposition of its requirements into national law, for other EU interventions such as Regulations or Decisions other measures may be necessary (e.g. in the case of Regulations, aligning other legislation that is not directly touched upon but affected indirectly by the Regulation with the definitions and requirement of the Regulation). Whilst EU legislation must be transposed correctly it must also be applied appropriately to deliver the desired policy objectives*.[27]

Incremental costs and benefits – *costs and benefits that would occur if a particular course of action is taken, compared to those that would have been obtained if that course of action had not been taken*.[28]

Information asymmetries – *situations in which some agent in a trade possesses information that other agents involved in the same trade do not*.[29]

Insurance – *a contract, represented by a policy, in which an individual or entity receives financial protection or reimbursement against losses from an insurance company*.

InsurTechs – technology savvy companies that use technological innovations to make the current insurance business model more efficient.[30]

Intermediary - *a natural or legal person who is not acting as a supplier and who, in the course of his trade, business or profession: (a) presents or offers financial service agreements to consumers; (b) assists consumers by undertaking preparatory work in respect of financial service agreements; and/or (c) concludes financial service agreements with consumers on behalf of the supplier*.[31]

Lender – *individual, group or financial institution that makes funds or other assets available to another with the expectation that they will be returned, in addition to any interest and/or fees*.[32]

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[22] Distance Marketing of Financial Services Directive
[23] European Commission. (2007). Survey of Financial Literacy Schemes in the EU27. Available at: http://ec.europa.eu/finance/finservicesretail/docs/capability/report_survey_en.pdf
[24] Distance Marketing of Financial Services Directive
[25] European Banking Authority, Glossary for financial innovation
[26] European Parliamentary Research Service, 2015, Competence in private law - The Treaty framework for a European private law and challenges for coherence
[27] European Commission (2017), Better Regulation Guidelines, Glossary
[28] https://financial-dictionary.thefreedictionary.com/Incremental+costs+and+benefits
[29] https://siteresources.worldbank.org/DEC/Resources/84797-1114437274304/Asymmetric_Info_Sep2003.pdf
[30] https://www.investopedia.com/terms/i/insurtech.asp
[31] Based on the definition of intermediary in the Consumer Credit Directive. The main difference is that in this case the intermediary does not have to receive a fee.
[32] Investopedia, 2019, Adam Barone, http://www.investopedia.com/terms/l/lender.asp

Means of distance communication – *any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the distance marketing of a service between those parties*.[33]

Mortgage loan – *consumer real estate credit, usually extended on a long-term basis with the mortgaged property as security*.[34]

Mystery shopping – *the activity of pretending to be a normal customer when you are employed by a company to check how its products or services are being sold*.[35]

Non-banks – *in general, these are non-monetary financial corporations. More specifically, they include insurance corporations and pension funds, financial auxiliaries, and other financial intermediaries*.[36]

Non-credit institution – *any creditor that is not a credit institution*.[37]

Peer-to-peer lending (or P2P lending) – a consumer credit service that allows businesses and individuals to borrow money, from many individuals who are ready to lend, instead of borrowing it from a single source. Peer-to-peer platforms used for P2P lending set out the rates and terms of transactions and enable the completion of these transactions.[38]

Payday loan – a small amount and short-term (up to one year) personal loan.[39]

Payment accounts – *means an account held in the name of one or more consumers which is used for the execution of payment transactions*.[40]

Payment services – *services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account; services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account; execution of payment transactions; issuing of payment instruments and/or acquiring of payment transactions; money remittance; payment initiation services; and account information services*.[41]

Personal loan – *credit granted to a private person for non-commercial purposes solely on the basis of that person's creditworthiness, income, and financial circumstances*.[42]

Personal pension product – *a product which: (a) is based on a contract between an individual saver and an entity on a voluntary basis and is complementary to any statutory or occupational pension product; (b) provides for long-term capital accumulation with the explicit objective of providing income on retirement and with limited possibilities for early withdrawal before that time; (c) is neither a statutory nor an occupational pension product*.[43]

Product bundling or Bundling practice – *the offering or the selling of a credit agreement in a package with other distinct financial products or services where the credit agreement is also made available to the consumer separately but not necessarily on the same terms or conditions as when offered bundled with the ancillary services*.[44]

[33] Distance Marketing of Financial Services Directive
[34] American State Bank, Banking Glossary
[35] Cambridge Business English Dictionary, 2011
[36] European Central Bank, 2016, Bank lending survey for the euro area, Glossary
[37] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property
[38] https://www.investopedia.com/terms/p/peer-to-peer-lending.asp
[39] European Credit Research Institute (ECRI), 2019, *Price rules in consumer credit: should the EU act?*
[40] Payment Accounts Directive
[41] Payment Services Directive
[42] Dictionary of Banking, UBS 1998 - 2019
[43] Pan-European Personal Pension Product Regulation
[44] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property

Right of withdrawal – *consumer's right to terminate a contract without reason within a specified time period, provided certain conditions are fulfilled*.[45]

Savings accounts – is an interest-bearing deposit account held at a bank or another financial institution which provides a small interest rate. The financial providers may limit the number of withdrawals that consumers can make from their savings account each month.[46] Savings accounts provide instant ("sight deposits") or time-limited ("time deposits") access to funds.[47]

SECCI (Standard European Consumer Credit Information) – a standardised form designed to show exactly what a finance agreement contains. The form will include key details such as type of credit, Annual Percentage Rate (APR), number and frequency of payments, and total amount owed.[48]

Stakeholder – *any individual citizen or an entity impacted, addressed, or otherwise concerned by an EU intervention*.[49]

Stakeholder consultation – *a formal process of collecting input and views from citizens and stakeholders on new initiatives or evaluations/ fitness checks, based on specific questions and/or consultation background documents or Commission documents launching a consultation process or Green Papers. When consulting, the Commission proactively seeks evidence (facts, views, opinions) on a specific issue*.[50]

Sweeps – *a set of checks carried out on websites simultaneously to identify breaches of EU consumer law in a particular sector. The sweeps operate in in a two-step action process, comprising of (a) screening websites to identify breaches of consumer law in a given online market, and (b) enforcement in which national authorities ask traders to take corrective actions. Sweeps are coordinated by the European Commission and carried out simultaneously by national enforcement authorities in participating countries*.[51]

Trading platform – *the software that enables investors and traders to place trades and monitor accounts through financial intermediaries. Oftentimes, trading platforms will come bundled with other features, such as real-time quotes, charting tools, news feeds, and even premium research*.[52]

Transposition – describes the process of incorporating the rights and obligations set out in an EU Directive into national legislation, thereby giving legal force to the provisions of the Directive. The Commission may take action if a Member State fails to transpose EU legislation and/or to communicate to the Commission what measures it has taken. In case of no or partial transposition, the Commission can open formal infringement proceedings and eventually refer the Member State to the European Court of Justice.[53]

Virtual currencies – *a type of unregulated, digital money which is issued and usually controlled by its developers and used and accepted among the members of a specific virtual community*.[54] Virtual currencies are digital representations of value are not issued nor guaranteed by a central bank or public authority and consequently they are not (conventional) fiat currency (FC).

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[45] IATE EU terminology database, COM-Terminology Coordination, based on: European Commission, Rights & principles applicable when you buy goods or services online
[46] Investopedia. Savings account. Available at: https://www.investopedia.com/terms/s/savingsaccount.asp
[47] European Commission (2006). Current accounts and related services. Available at: http://ec.europa.eu/competition/sectors/financial_services/inquiries/interim_report_2.pdf
[48] Credit Plus, 2019, Glossary, available at https://www.creditplus.co.uk/car-finance-glossary/secci/
[49] European Commission (2017), Better Regulation Guidelines, Glossary
[50] European Commission (2017), Better Regulation Guidelines, Glossary
[51] https://ec.europa.eu/info/live-work-travel-eu/consumers/enforcement-consumer-protection/sweeps_en
[52] https://www.investopedia.com/terms/t/trading-platform.asp
[53] European Commission (2017), Better Regulation Guidelines, Glossary
[54] ECB (2012): "Virtual Currency Schemes". European Central Bank, Frankfurt am Main. Available at https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemes201210en.pdf.

Abstract

This evaluation provided evidence on whether the current legal framework of Directive 2002/65/EC, on the distance marketing of consumer financial services (DMFSD) is still fit for purpose, via an assessment of its effectiveness, efficiency and simplification and burden reduction, relevance, coherence, EU added value. The evaluation assessed the overall functioning and practical application of the DMFSD and its continued relevance in view of market and legal developments and the current needs of stakeholders. This evaluation consulted relevant stakeholders (public authorities, consumer and business associations), surveyed both consumers and financial providers and incorporated results from the dedicated Open Public Consultation. It has also made use of a cost-benefit model, a mystery shopping exercise and a literature review. The evaluation finds that the DMFSD has been partially effective in increasing consumer protection and of limited effectiveness in contributing to consolidate the single market due to barriers that are beyond its remit. The DMFSD has EU added value and its objectives are still relevant. However, digitalisation exacerbated some aspects not fully addressed by the DMFSD, including how and when information should be provided. Simultaneously, needs originally addressed by the DMFSD are currently addressed by other EU legislation that significantly overlaps with the DMFSD.

Executive summary

Introduction

Directive 2002/65/EC, on the distance marketing of consumer financial services (the DMFSD or the Directive) was adopted on 23 September 2002 and implemented two years later[55]. Its objective was to consolidate the single market in distance selling of financial services while simultaneously providing a high level of consumer protection by harmonising consumer protection rules. To this end, the DMFSD:

- Obliges the supplier of financial services to provide the consumer with information on the supplier, the financial product, the distance contract and redress and compensation, prior to conclusion of the contract (Articles 3, 4 and 5).
- Ensures that the consumer can withdraw from the contract for most financial services without incurring liability and without giving any reason, during a specified cancellation period (often referred to as a 'cooling-off' period) (Articles 6 and 7).
- Prohibits the supply of services without explicit prior consent of the consumer (Article 9).
- Prohibits unsolicited communications without the prior consent of consumers if automatic calling or fax machines are used or, for other distance means of communication are used, where the consumer has expressly objected (Article 10).

The Directive was intended to cover all consumer financial services sold (horizontal scope) through all types of distance means of communication (technology-neutral approach). It provided for harmonisation or a first legislative starting point, as there was limited EU legislation on the marketing of specific consumer financial services. At national level, most EU Member States[56] did not have legislation covering pre-contractual information requirements, the right of withdrawal, or a ban on unsolicited services and unsolicited communication for financial services sold through distance means of communication.

This evaluation assesses the impact of the DMFSD on consumer protection and on the performance of the internal market of financial services sold through distance means of communication. In line with the EU Better Regulation Guidelines, it focuses on five evaluation criteria: relevance, effectiveness, coherence, efficiency (including simplification and burden reduction), and EU added value.

The evaluation was carried out between April and December 2019. As part of its legal task, research was carried out in the 28 EU Member States to map and assess the transposition and practical implementation of the DMFSD. In addition, the evaluation undertook substantial desk research and literature review, a quantification exercise, mystery shopping and extensive stakeholder consultation.

The stakeholder consultation sought to collect information and feedback on various aspects of the DMFSD and the EU market of financial services sold at distance. It included a consumer survey, an open public consultation (OPC) and targeted stakeholder consultation through phone interviews or surveys. These two latter targeted a wide range of stakeholders - consumer associations, financial providers and industry representatives, national authorities and enforcement bodies, as well as EU-level representatives and others (researchers and academics).

The evaluation report uses the data gathered to respond to 15 evaluation questions on the five evaluation criteria. Data collection limitations were observed to be the lack of

[55] Most Member States did not transpose the Directive until 2005/2006.

[56] The United Kingdom withdrew from the European Union as of 1 February 2020. During the transition period, which ends on 31 December 2020, Union law, with a few limited exceptions, continues to be applicable to and in the United Kingdom and any reference to Member States in Union law shall be understood as including the United Kingdom.

data on the size of the market at the baseline and since the implementation of the Directive, difficulties in accessing data on costs, benefits and compliance, as well as consultation fatigue among certain stakeholders. These limitations were mitigated through additional research and data collection activity, where possible.

Relevance

The evaluation concludes that the objectives of the DMSFD to consolidate the single market and increase consumer protection are somewhat in line with the current needs of providers and consumers, and can be only partially addressed by the DMFSD.

Consumers remain in a vulnerable position. Further digitalisation of the financial services sector brought more complex financial services/products, increased the speed with which consumers can sign a contract and purchase a financial service (e.g. speedy, or 'one-click' products) and gave providers the tools to better influence and shape consumer behaviour (e.g. using 'Big Data' to personalise communications and offers, giving prominence solely to positive reviews, or using influencer marketing). Consequently, the need to address information asymmetries (by providing pre-contractual information), allow consumers to reverse ill-advised and rushed decisions (through the right of withdrawal from the contract) and protect them from unsolicited services and communications remains generally relevant.

Developments in the market (chiefly the increasing digitalisation) and the emergence of new financial sales and marketing practices, together with new insights from studies in the area of consumer behaviour, reveal that some consumer needs are currently not fully addressed by the current text of the DMFSD.

On pre-contractual information disclosure, the following consumer needs were identified as incompletely addressed by the DMFSD: i) balanced approach to the amount of information disclosed; ii) presentation of information in a way that is adapted to the device used; iii) presentation of information in a way that improves consumers' ability to read and understand key points (e.g. simplified descriptions, avoid small print, use of icons, use of traffic light label for financial risk, use of tables to present information, minimise the use of hyperlinks, use of pop-ups with warning messages); iv) provide information in a format that enables comparison between services and products; and v) ensure that information is easily accessible and provided in a timely manner.

On the right of withdrawal, the main consumer needs not fully addressed by the DMFSD relate to: i) simplified and non-burdensome withdrawal process; and ii) reflection period or opt-in/trial period approach (versus the current opt-out approach). Consumers need mechanisms to ensure that their consent is provided consciously (and not under pressure or automatically, through pre-ticked boxes), that the advice they receive is adequate and trustworthy, and that they are not subject to unfair cross-selling practices.

The objective to consolidate the single market is of limited relevance to fostering cross-border sales due to persistent consumer and supply side barriers, along with elements that go beyond the influence of the Directive.

However, the Directive remains relevant in creating a level playing field and ensuring that a minimum set of rules applies to all current and future services and providers, thereby preventing unfair competition from providers exploiting legal loopholes due to a lack of product-specific legislation.

The implementation of EU horizontal and product-specific legislation since 2004 has contributed to addressing consumers' and providers' needs that were originally intended to be addressed by the DMFSD. While this reduced the relevance of the Directive, most of the needs mentioned above are similarly incompletely/not addressed by other EU legislation.

At present, the provisions on pre-contractual information are chiefly relevant for savings accounts, consumer credit below EUR 200 and above EUR 75,000, and personal pensions. Additionally, the requirements for the provision of information on the right of withdrawal are relevant for payment accounts, mortgages in Member States that opted to give this right under the DMFSD rather than the Mortgage Credit Directive (MCD), and insurance covered by Article 6 of the Directive. The provisions on the right of withdrawal are still relevant for payment accounts, savings accounts, consumer credits below EUR 200 and above EUR 75,000, mortgages in Member States that opted to give this right under the DMFSD and not the MCD, insurances covered by Article 6 and personal pensions. The provisions on unsolicited communications and services are mostly irrelevant due to ePrivacy Directive, the General Data Protection Regulation (GDPR) and the Unfair Commercial Practices Directive (UCPD).

Despite these developments, the Directive provides a sound safety net to capture the distance selling of any new financial services/products and ensure that a solid consumer protection framework is in place.

Effectiveness

The objective to contribute to better consumer protection and trust has been achieved to some extent. The majority of the stakeholders from all groups believed that the DMFSD has contributed a) to increased consumer confidence, knowledge and understanding of the products purchased, by encouraging sufficient information disclosure prior to the conclusion of the contract, and b) to help consumers who changed their minds about the products they had bought.

The objective of single market consolidation has been achieved to a limited extent, as many barriers to cross-border purchases remain - on both the consumer and supply side - that are beyond the influence of the DMFSD. The Directive has however contributed to fostering a level playing field for financial service providers.

The effectiveness of the DMFSD in achieving its two objectives – consolidating the single market and increasing consumer protection – may have been influenced by external promoting or inhibiting factors. Some of those external promoting factors include: other EU legislation, increase of financial literacy, digitalisation trends, and emergence of non-traditional providers (e.g. FinTechs) and comparison websites. Inhibiting factors may include: different approaches adopted by EU Member States in their transposition of the DMFSD, overlaps and inconsistencies with other EU legislation, inherent supply and consumer barriers to cross-border purchase, new irresponsible/misleading selling and advertising practices, behavioural biases of consumers, and marketing of complex and risky financial services.

Due to the introduction of other EU legislation since 2004, current achievements in consumer protection and the level playing field can be attributed to the DFMSD to a limited extent. However, achievements in respect of the right of withdrawal can primarily be attributed to the DMFSD for certain products (except credit between EUR 200 and EUR 75,000, and some mortgages and payment services). Achievements in the context of pre-contractual information are partly attributable to product-specific legislation, while achievements on minimising unsolicited communications and services are largely unrelated to the DMSFD, due to horizontal legislation.

Data suggest a moderate level of compliance with the key provisions of the DMFSD. Compliance levels are not the same for all provisions, however. While the level of compliance among financial providers with the ban on unsolicited services is considered very high, compliance levels with the right of withdrawal are moderate to high, and only moderate when it comes to pre-contractual information and unsolicited communications.

All Member States implemented and enforced the DMFSD. There are limitations to the assessment of the effectiveness of the enforcement of the DMFSD, but the consumer survey suggests persistent issues in enforcing the DMFSD. There are also substantial differences between Member States in enforcement effectiveness, due to combination of factors linked to the differences in the authorities responsible (and their mandate), the likelihood of non-compliance being detected and followed up on, the breadth of sanctions, and the resources available for enforcement at Member State level.

Coherence

The assessment found that while the DMFSD provisions themselves work well together and between themselves, there is a degree of incoherence with the Directive's general objectives, since the objectives are broad and the provisions only allow for these to be met to a limited degree.

The clarity of the Directive is an area of concern for some specific concepts, in particular 'distance contract', 'durable medium' and 'in good time'.

Overall, the evaluation found that the key elements of the DMFSD (provisions of pre-contractual information, right of withdrawal, and unsolicited services and communications) are coherent with the relevant provisions of other EU horizontal legislation. There are, however, significant overlaps between the DMFSD and the EPD and GDPR on unsolicited communication. The UCPD has amended Article 9 of the DMFSD on unsolicited services.

The evaluation finds that the DMFSD is in line with product-specific EU and national legislation in the context of financial products sold at distance. There is a significant degree of overlap between the provisions of the DMFSD and other product-specific EU laws, primarily on the requirements of pre-contractual information (which often are more stringent in product specific legislation). However, the evaluation identified only minor inconsistencies between the DMFSD and product-specific EU legislation, specifically on the right of withdrawal (e.g. the DMFSD sets the maximum number of days within which the right of withdrawal can be exercised, while the Prospectus Regulation states that the right of withdrawal cannot be exercised until a minimum of two days after the final offer price and/or amount of securities has been filled; the Payment Services Directive (PSD) II allows the consumer to withdraw their consent to execute a payment transaction or a series of payment transactions at any time, as long as it takes place before the moment of irrevocability) and the provision of pre-contractual information (e.g. with the PSD II in terms of the burden of proof or the differentiation between advertising stage and pre-contractual phase given that the DMFSD does not make a distinction between these two phases, while the Credit Control Directive (CCD), MCD, EU Regulation 1286/2014 on packaged retail and insurance-based investment products (PRIIPs) and Pan-European personal pension product (PEPP) all clearly differentiate between the types of information to be provided in the context of advertisement and in the pre-contractual phase).

Efficiency

The DMFSD led to one-off and recurrent costs for public administrators and financial service providers (which are eventually passed on to consumers), and generated benefits to consumers, due to higher levels of protection. The costs for public administrators include one-off costs to transpose the Directive and implement/adapt the necessary complaint-and-redress mechanisms, as well as recurrent costs to monitor compliance, enforce and manage complaints. Financial providers had significant one-off costs to adapt their systems and processes to comply with the Directive and train their staff on the new requirements imposed by the Directive. They also incur annual recurrent costs associated with providing pre-contractual information and complying with the right of withdrawal.

The quantifiable benefits of the DMFSD relate to the reduction of consumer personal detriment (financial and time losses). The benefits of the DMFSD vary by type of financial service, due to various factors, such as the demand for financial services and incidence of problems for that service (both influence the total number of problems), the number of complaints for that service (which influences the magnitude and time lost per problem), and overlaps between the Directive and product-specific legislation regulating that service (which influences the rate of attribution of benefits to the

Directive). Until 2016, the provision with the highest annual benefit was that on pre-contractual information, followed by that on the right of withdrawal. In 2016, the provision on the right of withdrawal brought the highest benefits, as product-specific legislation introduced in that year (MCD and PRIIPs) reduced the rate of benefit that could be attributed to the DMFSD provision on pre-contractual information.

The benefits of the DMFSD for consumers appear to be proportionate to its costs, according to the economic model developed and the stakeholders consulted. They have remained relatively stable over time due to two opposite forces: the constant and significant increase in purchases of financial services at distance (upward force) and the introduction of other EU horizontal and product-legislation that significantly overlaps with the DMFSD (downward force). Currently, the provision with a higher cost-benefit ratio is the right of withdrawal.

The evaluation finds some scope for simplification and burden reduction. This includes streamlining the EU legal framework for financial services and addressing aspects related to the process, means and format through which information is provided and presented to consumers.

EU added value

Overall, the added value of the DMFSD remains considerable, despite the decline in its value over time following the entry into force of product-specific legislation.

At the time the DMFSD came into effect, there was little by way of product-specific legislation to ensure minimum standards of consumer protection. The DMFSD standards in the areas of pre-contractual information, the right of withdrawal and unsolicited services and communications went beyond those in most Member States and its contribution to EU-wide standards for consumer protection was quite clear.

The added value of the DMFSD as a safety net for consumers has gradually decreased as the provisions have begun to be covered by other EU horizontal and product-specific legislation. Nevertheless, the likely emergence of new financial products and technologies in the future justify the added value of the DMFSD at EU-level as a safety net until product-specific legislation is in place to cover those new services/products. The Directive remains relevant in its completeness (and precisely because it is now a 'safety net'), as certain elements are not afforded the same standards in product-specific legislation, in particular the right of withdrawal for most financial services and - to a lesser extent - the pre-contractual information requirements for several products (e.g. credit below EUR 200 and above EUR 75,000, or information on the right of withdrawal for some services).

Withdrawing the DMFSD now would have less of a detrimental effect on consumers than it might have had a decade ago. Although the advent of new product-specific legislation would certainly soften the consequences of withdrawing the DMFSD itself, a number of adverse effects could be anticipated. In particular, the pre-contractual information requirements for savings accounts, credit below EUR 200 and above EUR 75,000 and personal pensions would become less stringent, while a significant share of financial services would no longer be covered by the right of withdrawal (e.g. payment accounts, insurance, personal pensions and credit below EUR 200 and above EUR 75,000). Moreover, consumers buying products not covered by sector-specific legislation or new products at distance would not be protected.

1 Introduction

This is the Final Report of the Evaluation of Directive 2002/65/EC on Distance Marketing of Consumer Financial Services (DMFSD), a study launched by the European Commission, Directorate-General for Justice and Consumers (DG JUST) in May 2019 and carried out by ICF Consulting Services Ltd (ICF).

1.1 Purpose and scope of the evaluation

The study aims to:

- Gather and analyse evidence on whether the DMFSD remains fit for purpose, notably via the assessment of its relevance, efficiency including simplification and burden reduction, effectiveness, EU added value and coherence.
- Provide an assessment of the overall functioning of the DMFSD in relation to its original objectives and to the needs that have arisen since its adoption in 2002.
- Identify priority areas for improvement.

1.2 Methodological approach and limitations

This section presents the methodological approach adopted for the evaluation, including a summary of each task, the challenges faced, mitigation measures taken and any significant changes to the methodology, and the limitations of the study.

1.2.1 Methodological approach and mitigation measures

The evaluation supporting study was carried out between May 2019 and December 2019 and followed the approach depicted in Figure 1.

Figure 1. Methodological approach

Task 1 – Evaluation framework

The framework for the evaluation of the DMFSD was developed based on inputs from DG JUST and other stakeholders and the results of the desk research. The evaluation framework includes the intervention logic of the DMFSD, evaluation questions, judgement criteria and indicators.

Task 2 - Legal analysis

This task analysed the interplay between the DMFSD and EU legislation regulating similar areas (see Table 1); it also included a mapping and assessment of the transposition and practical implementation of the DMFSD in each of the 28 EU Member States. The EU and Member State factsheets developed in this task are provided in Annex 8.

Table 1. EU legislation analysed

	Year of implementation	Consumer credit	Mortgages	Insurance products	Payment accounts	Investment products	Payment services	Personal pension products
Product-specific legislation								
Consumer Credit Directive (CCD, 2008/48/EC)	2010	✓						
Mortgage Credit Directive (MCD, 2014/17/EU)	2016		✓					
Payment Accounts Directive (PAD, 2014/92/EU)	2016				✓			
Payment Services Directive (PSD II, 2015/2366)	2018				✓		✓	
Solvency II Directive (Solvency II, 2009/138/EC)	2016			✓				
Insurance Distribution Directive (IDD, 2016/97)	2018			✓				
Market in Financial Instruments Directive (MiFID, 2014/65/EU)	2017					✓		
Undertakings for the collective investment in transferable securities Directive (UCITS, 2009/65/EC)	2011					✓		
Prospectus Regulation (2017/1129)	2019					✓		
Alternative investment fund managers Directive (AIFMD, 2011/61/EU)	2013					✓		
Directive on investor compensation schemes (97/9/EC)	1998					✓		
EU Regulation 1286/2014 on packaged retail and insurance-based investment products (PRIIPs)	2018			✓		✓		
Directive on deposit guarantee schemes (2014/49/EU)	2016				✓			
Pan-European personal pension product (PEPP)	2020							✓
Horizontal legislation								
Unfair Contract Terms Directive (UCTD)	1994	✓	✓	✓	✓	✓	✓	✓
e-commerce Directive (ECD)	2002	✓	✓	✓	✓	✓	✓	✓
ePrivacy Directive (EPD)	2003	✓	✓	✓	✓	✓	✓	✓
Unfair Commercial Practices Directive (UCPD)	2007	✓	✓	✓	✓	✓	✓	✓
Consumer Rights Directive	2014							
General Data Protection Regulation (GDPR)	2018	✓	✓	✓	✓	✓	✓	✓
Geo-blocking Regulation	2018							

Task 3 – Literature review

A substantial body of academic and non-academic documentation, together with other resources (e.g. statistics) was reviewed and analysed (see Annex 2) from a variety of EU, Member State and international sources.

Task 4 – Stakeholder consultation

The stakeholder consultation sought to collect information and feedback on the market of financial services sold at distance in the EU and on various aspects of the DMFSD (and other relevant legislation) from a wide range of key stakeholders. The consultation plan comprised a variety of sub-tasks:

- Survey of consumers across eight Member States[57] (Czechia, Finland, France, Germany, Italy, Netherlands, Poland and Sweden) on their views and experiences of searching and purchasing financial services using distance means of communication (see Annex 4 for an overview of consumer survey results).
- Surveys and interviews with financial providers (including EU and national business associations), consumer associations, EU and national authorities (e.g. government and regulators), researchers and interest groups to gather their perspective on the evaluation questions (see Annex 6 for a synopsis of these consultations).
- Analysis and summary of the open public consultation (OPC) that aimed to maximise the use of the views provided and the data obtained. The results can be found online[58].

The consultation period was launched in July 2019 and closed in September 2019. Table 2 shows the number of responses submitted to the OPC and number of interviews/surveys carried out per stakeholder group.

Table 2. Summary of interviews and surveys

Stakeholder category	Responses submitted to the OPC	Interviews and surveys
EU and national industry representative	26	21
EU and national consumer representatives	9	14
Financial providers and representatives	17	8
Consumers	39	1,043
EU and national authorities	17	28
Other	6	

Task 5 – Mystery shopping

The mystery shopping aimed to gain insight into the practical application of the DMFSD by replicating the consumer experience in searching and purchasing financial services at a distance, both in a domestic and cross-border context, and using a variety of distance means of communication.

[57] The countries targeted in the consumer survey were selected to cover the two countries with the highest incidence of online sales of financial services (in absolute terms) in each of the four regions, as adopted by the UN (Eastern Europe, Northern Europe, Southern Europe and Western Europe). Survey response targets were based on the size of the population of each Member State.

[58] *Reference to be added once available*

A total of 400 mystery shops were carried out in 10 Member States[59] (40 in each country), covering five types of financial products/services[60] (travel insurance, low interest credit cards, stocks, credit transfer and current accounts).

Task 6 – Quantification

The aim of the quantification was to analyse the costs (one-off and recurrent) and benefits (impact on consumer detriment) of the DMFSD and its key provisions for industry, consumers and public administration in all 28 Member States per financial service category[61]. For this purpose, an economic model was developed based on existing methodologies for such assessments in the consumer area, data obtained from public sources and this study research.

Task 7 – Case studies

Ten case studies were developed to examine the data collected on:

- DMFSD provision of pre-contractual information;
- Challenges in the protection of consumers and the level playing field, the impact of withdrawing the DMFSD and existing gaps (and possible measures) on the sub-sector of intermediaries (i.e. brokers[62] and consolidators[63]) and on the market for distance selling of each of the following financial products/services: virtual currencies, peer-to-peer lending, payday loans/cash advances, savings accounts, investments, insurance (non-life and life), credit cards, money transfers and payments.

The case studies are provided in Annex 1 to this report.

1.2.2 Limitations and robustness of findings

Overall, **the findings of the evaluation are robust** as they are based on the combination and cross-checking of qualitative and quantitative data from a variety of sources (e.g., OPC, stakeholder consultations, mystery shopping, desk research) and incorporate the views of different stakeholders. Nevertheless, the following limitations should be taken into account:

- Limited data on the evolution of distance marketing of financial services in general and by type of financial service/product (e.g. market penetration, number of financial providers, cross-border sales), on the evolution of type, rate and severity of problems and consumer detriment, and on one-off and recurrent costs related to implementation and compliance with the DMFSD. In order to mitigate these limitations, the evaluation team engaged with additional industry stakeholders and carried out further desk research. However, the limitations to the hard data available increased the number of estimates and assumptions within the evaluation. These estimates and assumptions are an extrapolation of quantitative data available and/or an expert judgment based on the available qualitative and quantitative data and knowledge. They are conservative, and balanced in the sense that they include or combine the data collected from various sources.

[59] Poland, Czechia, Sweden, Finland, France, Italy, Germany, Netherlands, Belgium and Ireland. The selection of countries followed a similar approach to that of the consumer survey but also took national languages into account.
[60] The selection of financial products/services was based on the current and expected evolution of the market share of the various product categories (in terms of sales through distance communication, both cross-border and domestic), as well as the need to cover a variety of different products/services and challenges in selling/purchasing financial products through distance means.
[61] Payment accounts, mortgages, credit/loans (including credit cards), insurance, pensions, payment services and investments.
[62] A broker refers to the role of a person or firm when acting as an agent for a customer and charges the customer a commission for its services. See https://www.investopedia.com/terms/b/broker.asp.
[63] Consolidator websites sell products or services from a variety of suppliers directly to consumers.

- Difficulties in assessing the extent to which impacts on consumer protection and the distance market of financial services can be attributed to the DMFSD and not to other EU/national legislation and other factors. In order to mitigate this limitation, the evaluation team relied on the views of stakeholders and expert judgement to define the necessary assumptions.
- Stakeholder interviews and surveys initially yielded a much lower response rate than expected. In order to boost the rate and provide sufficient time for stakeholders to share their views, the evaluation team extended the consultation period. The team also worked closely with the key EU representative associations (for consumers and industry) to gather views from their members. The evaluation team provided stakeholders with all possible ways to contribute, such as phone interviews, online surveys and answering the interview questions via a Word questionnaire. Consultation numbers were lower than expected due to the OPC running in parallel (which was cited by some as a reason for not contributing separately), general stakeholder fatigue and lack of resources/time (particularly for some consumer associations), and lack of availability of stakeholders during the holiday period. In other areas (consumer survey, mystery shopping and literature review), additional efforts were made to increase output versus the initial plan.

1.3 Structure of the report

The remainder of this document is structured as follows:

- Section 2 offers the contextual background to the study, providing a brief overview of the key EU-level policy developments, the intervention logic for the Directive and the market of distance selling of financial services before the transposition of the Directive in 2004.
- Section 3 provides an overview of the state of play of the transposition of the DMFSD, the evolution of the market of distance selling of financial services since the transposition of the Directive and the complaints and infringements related to the DMFSD.
- Section 4 presents the key study findings against each of the evaluation questions.

The main report is supported by the following annexes:

- Annex 1: Case studies
  - Case study 1: Pre-contractual information
  - Case study 2: Intermediaries
  - Case study 3: Virtual currencies
  - Case study 4: Peer-to-peer lending
  - Case study 5: Payday loans/cash advance
  - Case study 6: Savings accounts
  - Case study 7: Investments
  - Case study 8: Insurance (non-life and life)
  - Case study 9: Credit cards
  - Case study 10: Money transfers and payments
- Annex 2: Documentation reviewed
- Annex 3: Stakeholders consulted
- Annex 4: Results of the consumer survey
- Annex 5: Results of the mystery shopping exercise
- Annex 6: Stakeholder consultation synopsis report
- Annex 7: Quantification methodology and limitations
- Annex 8: Legal research – EU and country factsheets

2 Background

2.1 Policy background to the DMFSD

The Distance Marketing of Consumer Financial Services Directive (Directive 2002/65/EC – hereafter referred as the DMFSD or the Directive) was adopted on 23 September 2002 (shortly after the e-Commerce Directive[64]). Member States had two years to transpose the Directive into national law[65]. The Directive amended Council Directive 90/619/EEC (on direct life insurance), Directive 97/7/EC (all goods and services other than financial services and protecting consumers in non-over-the-counter transactions) and Directive 98/27/EC on injunctions for the protection of consumers' interests).

The DMFSD was proposed in 1998, when the dot-com era was already at an advanced stage[66] and dot-coms were expected to transform the economy. As will be seen below, digitalisation and cross-border commerce among EU citizens was low at the time of the Directive's adoption. However, it was expected that internet usage and commerce would surge in parallel with the transformation of the market. The Directive thus anticipated the future needs of the market and EU citizens.

The DMFSD aimed to consolidate the single market in distance selling of financial services while attaining a high level of consumer protection by harmonising consumer protection rules. To this end, the DMFSD:

- Imposes on the supplier of financial services an obligation to provide the consumer - prior to the conclusion of the contract - with information on the supplier's identity, the financial product (characteristics, price, additional external fees or taxes, validity of the offer, payment conditions), the distance contract (information on withdrawal, duration, termination and penalties, clauses and languages used), and redress and compensation. This information must be provided to the consumer in a clear and comprehensible manner, appropriate to the means of distance communication used, on paper or another durable medium before the contract can be concluded. (Article 3, 4 and 5 on pre-contractual information).
- Ensures that the consumer can withdraw from the concluded contract (Article 6, on right of withdrawal) without incurring liability and without giving any reason during a specified cancellation period (often referred to as a 'cooling-off' period). This period is normally 14 calendar days from the day the distance contract is concluded or the day the consumer receives the terms and conditions (T&Cs). The cooling-off period is extended to 30 calendar days in distance contracts relating to life insurance covered by Directive 90/619/EEC and personal pension operations. The right of withdrawal does not apply to 'financial services whose price depends on fluctuations in the financial market outside the suppliers control', 'travel and baggage insurance policies or similar short-term insurance policies of less than one month's duration', and 'contracts whose performance has been fully completed by both parties at the consumer's express request before the consumer exercises his right of withdrawal'.
- Prohibits supply of services without the explicit prior request of the consumer (Article 9) and bans unsolicited communications (Article 10). According to Article 10, the consumer's prior consent is also required when the supplier uses automatic calling machines and fax machines as distance communication

[64] The ECD establishes the possibility of Member States to restrict the free movement of information society services to protect consumers, which covers measures in the area of financial services. According to recital 27, the ECD *"together with the future Directive of the of pre-emption by public authorities concerning certain European Parliament and of the Council concerning goods such as works of art. the distance marketing of consumer financial services, contributes to the creating of a legal framework for the on-line provision of financial services."* Thus, the ECD is complementary to DMFSD.
[65] Most Member States did not transpose the Directive until 2005/2006.
[66] The stock market bubble driven by the dot-com boom began to fail in 2000.

techniques. The use of any other means allowing individual distance communication has to be authorised by the consumer and may only be used if the consumer has not expressed objection.

The Directive was intended to cover all consumer financial services sold (horizontal approach) through all types of distance means of communication (i.e. technologically neutral). It provided for harmonisation or a first legislative starting point, as there was previously very limited EU legislation on the marketing of specific consumer financial services. At national level, most Member States did not have legislation in place covering pre-contractual information requirements, the right of withdrawal, the ban on unsolicited services and unsolicited communications for financial services sold through distance means of communication.

Table 3. Legal baseline - extent to which national legislation covered the provisions introduced by the DMFSD

	Pre-contractual Information	Right of withdrawal	Unsolicited services	Unsolicited communications
Not covered	AT, BG, CY, CZ, DE, FI, FR, HR, HU, IE, IT, LT, LU, MT, PL, RO, SI	AT, BE, BG, CY, CZ, FI, FR, HR, HU, IE, IT, LT, LU, MT, NL, PL, RO, SE, SI	BG, CY, CZ, DE, EL, FR, HR, HU, IE, IT, LT, LU, MT, NL, PL, RO, SI	BG, CY, CZ, EE, EL, FR, HR, HU, IE, IT, LT, LU, MT, PL, RO, SI, UK
Partially covered	BE, DK, EE, EL, ES, LV, NL, PT, SE, SK, UK	EE, PT	EE	
Covered		DK, DE, EL, ES, LV, SK, UK	AT, BE, DK, ES, FI, LV, PT, SE, SK, UK	AT, BE, DK, ES, FI, LV, NL, PT, SE, SK, UK

Source: ICF (2019)

The use of a Directive rather than a Regulation was expected to foster adaptation to the national context and to promote maximum harmonisation. The DMFSD is a full harmonisation Directive, which means that Member States cannot impose more restrictive national laws. However, in the area of pre-contractual information, Member States can maintain or introduce more stringent rules. Further requirements contained in national legislation shall continue to apply, in conformity with EU law (Article 4 of the DMFSD).

2.2 Intervention logic

Figure 2 sets out the logic model that maps the DMFSD's objectives, inputs, outcomes, results and expected impacts. It provides an understanding of theory of change of the intervention, as well as the expected outcomes of the proposed change.

The main objectives of the DMFSD are to increase consumer protection and to help consolidate the single market of financial services sold through distance means of communication. The first objective of improving consumer protection consists of three specific objectives namely, to ensure that consumers (1) receive better pre-contractual information, (2) have an effective right of withdrawal and (3) are protected against unsolicited communications and services.

The objectives are to be achieved by the DMFSD provisions (inputs) which constitute harmonised EU rules on distance marketing financial services. In particular, the objectives of the DMFSD are linked to a set of specific provisions, relating to individual articles of the Directive. These relate to setting definitions and scope (Art 1) the provision of pre-contractual information (Art 3, Art 4 and Art 5), the right of withdrawal (Art 6, and Art 7), the ban on unsolicited services (Art 9) and on unsolicited communications (Art 10), access to redress (Art 13 and Art 14) and setting sanctions on providers (Art 11).

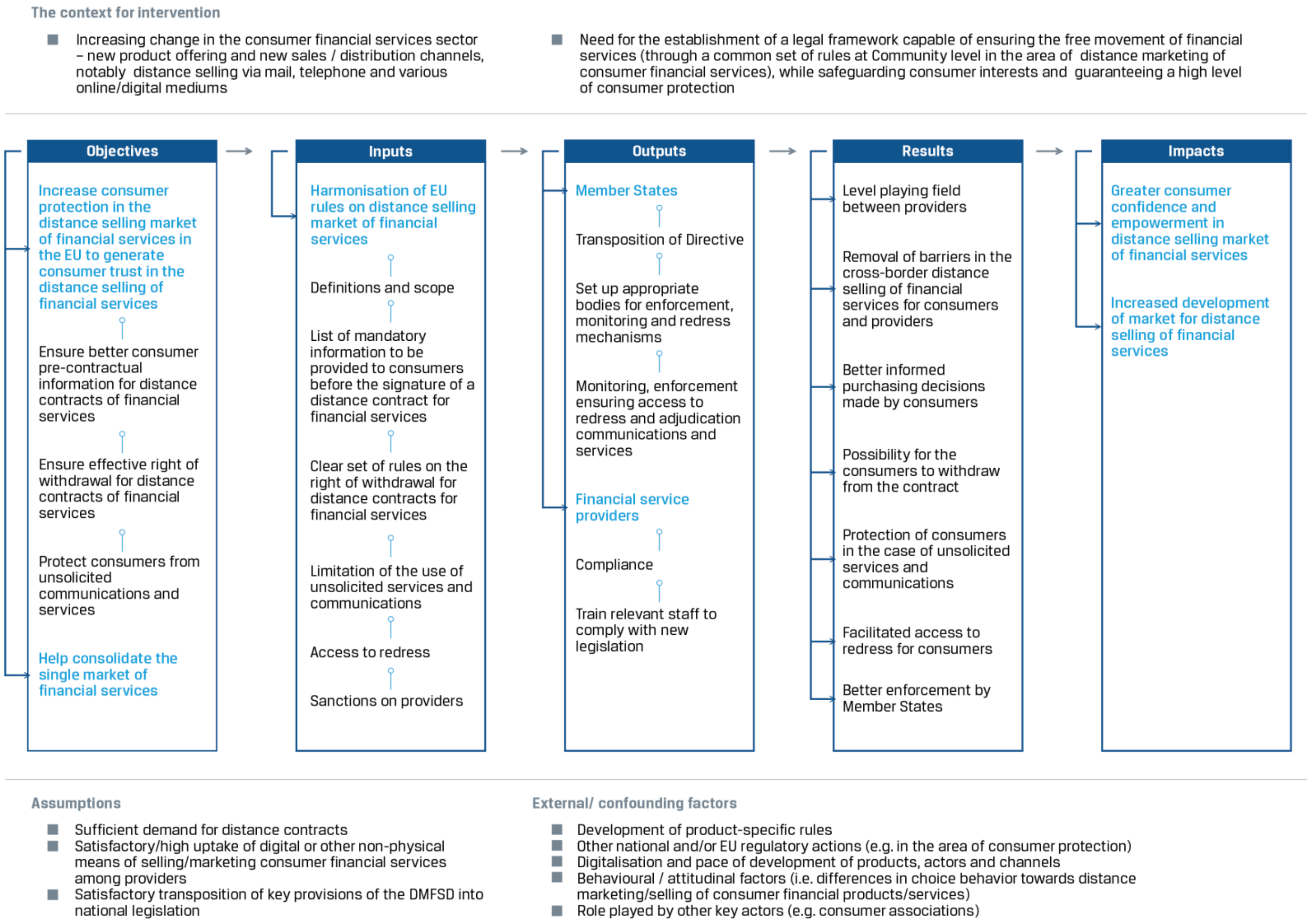
These inputs related to the DMFSD's provisions in turn lead to outputs at Member State and financial providers' level. At Member State level, the main outputs are the transposition of the Directive, setting up the appropriate bodies for implementing enforcement, and monitoring, enforcing and ensuring access to redress. At financial providers' level, the main outputs are the compliance with the Directive and the training of staff.

These outputs are expected to produce the following results:

- Level playing field between providers;
- Removal of barriers in the cross-border distance selling of financial services for consumers and providers;
- Better informed purchasing decisions made by consumers;
- Possibility for the consumers to withdraw from the contract;
- Protection of consumers in the case of unsolicited services and communications;
- Facilitated access to redress for consumers.

These results should ultimately have a positive impact on the level of consumer confidence and empowerment and on the development of the single market of financial services sold through distance means of communication.

Figure 2. Intervention logic of the DMFSD

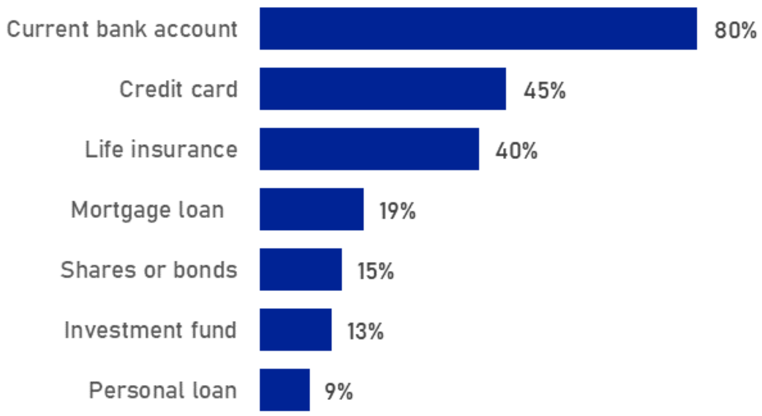


2.3 The distance marketing financial sector pre-2004 (baseline)

The EU financial sector leading up to in 2004

The financial and insurance activities sector in 2002-2004 in the EU-28 made up 5.3% of the total market added value at that time[67] and represented about 4.8% of the EU-28 GDP in the period pre-2004. In terms of final household consumption expenditure in the EU, during 2000-2004 financial services represented an average of 5.6% of the total market household expenditure[68]. According to the 2003 Eurobarometer 205, the most common financial products in the EU-15 at the time was current bank accounts, followed by credit cards and life insurance (see Figure 3).

Figure 3. Answers to the Eurobarometer 205 question 'Which of the following financial products and services do you have?'



Source: ICF (2019), based on Eurobarometer 205 (2003)

Results from the Standard Eurobarometer 205 (2003) and the Special Eurobarometer 230 (2005) suggested that cross-border purchases were not commonly used during 2003-2004. For instance, the purchase of financial products and services from other EU Member States, was carried out by less than 1.5% of respondents to the Eurobarometer 230 survey. Among those consumers who did report a purchase from another Member State, the most popular financial services were current bank accounts (4% of respondents). Credit cards were the second most popular product (2% of respondents), followed by mortgages, shares/bonds, investment funds and insurances, each purchased by only 1% of the respondents.

At the time of the adoption and implementation of the DMFSD, only a small share of the market was conducted using distance means of communication such as fax, telephone, email or other online activity; but it was expected to grow significantly and rapidly in the following years. For example, on the supply side, there were signs of the increasing digitalisation of the banking sector, with the number of bank branches per capita dropping in most of the observed EU countries[69] in the period pre-2004 (overall reduction was 1.5%, and for example in Germany dropped 4%, in Belgium 7% and in United Kingdom 2%).

Overall, in the period 2000-2004, the share of the EU population aged between 16 and 74 using the internet tended to be low. At the time, almost half of the EU population

[67] Eurostat (2019). Gross value added and income by industry breakdowns, nama_10_a10 (accessed on 7 October 2019).
[68] Eurostat (2019). Final consumption expenditure of households by consumption purpose, nama_10_co3_p3.
[69] Eurostat [sbs_cre_rreg], data available for Belgium, Germany, Estonia, Spain, France, Lithuania, Hungary, Austria, Portugal, Slovakia, Finland, Sweden and United Kingdom.

aged between 16 and 74 had never used the internet or had not used it in the past 12 months. According to Eurobarometer 230, in 2003 less than 15% of the respondents had used internet to make a bank transaction and only around 9% had used internet to make other financial transaction. Available data suggest that in 2004, between 2% and 3.7%[70] of the EU-27 population aged between 16 and 74 purchased at least one financial service online.

However, digital inclusion was increasing, with the share of EU-15 citizens using the internet frequently growing from 38% in 2003[71] to 41% in 2004. The highest digital inclusion for the period 2003-2004 was registered in Sweden, Denmark and Finland, where citizens used the internet at least once a week. Countries such as Czechia, Greece and Portugal were below the EU average.

Need for consumer protection

In the period 2000-2004 consumers had low financial literacy[72] and difficulty in understanding the information provided by financial institutions or relating to financial services. For example, according to Eurobarometer survey 205 (2003), 58% of respondents disagreed that the information they received from financial institutions was clear and understandable. This was further supported by product-specific results (see Eurobarometer 230 (2005)), such as the fact that a total of 59% of respondents found it either very difficult (18%) or fairly difficult (41%) to understand the information provided by financial institutions on the way their mortgages work and the risks involved. A total of 50% found it either very difficult (13%) or fairly difficult (37%) to compare information from banks on bank account charges and features. Lastly, 51% of respondents found it very difficult (14%) or fairly difficult (37%) to know in advance how well their insurance policies cover them.

As highlighted by the Organisation for Economic Co-operation and Development (OECD), the lack of financial education and consumer awareness, together with information asymmetry as highlighted by the respondents above, weakens the relationship between households and financial institutions[73]. In fact, in this period a significant share (41%) of respondents to the Eurobarometer survey 205 disagreed with the statement that their rights as consumers are adequately protected in relation to financial services.

Consumers tended to have low digital literacy and a low level of trust in the use of distance means for financial services, with 61% of the respondents to the Eurobarometer 205 survey disagreeing with the statement that they trust the telephone for banking transactions, and 58% disagreeing with the statement that they trust the internet for banking transactions and payments.

Need to consolidate the single market

The share of cross-border sales of financial services was very small in the period 2000-2004. In addition, according to the Eurobarometer 205 survey, only a small fraction of respondents would consider purchasing a financial product or service from another EU

[70] Eurostat [isoc_ec_ifi] and [isoc_ec_ibuy]. See section 3 for details about these figures. Based on (1) these numbers for online purchases in 2004, and on (2) an estimated share of online purchases on the total of distance purchases financial services of between 35% (obtained assuming that this share evolved with the use of internet reaching 61% in 2018 based on the consumer survey) and 49% (an upper limit calculated to be 40% higher than the lower limit), the percentage of individuals that purchased at least a financial service in 2004 using distance means of communication is estimated to be between 4% and 11%.

[71] 2003 is the first year for which data relating to digital inclusion are available (Eurostat, 2019, Digital inclusion – individuals, isoc_bdek_di).

[72] The OECD defines financial literacy as a 'combination of awareness, knowledge, skill, attitude and the behaviour necessary to make sound financial decisions and ultimately achieve individual financial wellbeing'. In OECD INFE (2011). Measuring Financial Literacy: Core Questionnaire in Measuring Financial Literacy: Questionnaire and Guidance Notes for conducting an Internationally Comparable Survey of Financial literacy. Paris: OECD, p. 3.

[73] OECD INFE (2009). Financial Education and the Crisis: Policy Paper and Guidance.

Member State, with 9% of respondents reporting that they would open a current bank account, followed by 8% who would apply for a credit card, 7% for shares/bonds, 6% for investment funds and 5% apiece for mortgages and life insurance.

This relatively low level of cross-border purchases and services could be linked to a range of obstacles encountered by consumers. Previous studies have highlighted two types of obstacles: (1) natural obstacles, such as differences in language and culture, consumer trust in established national suppliers, distance, and the desire for personal contact; (2) policy-induced obstacles, such as discriminatory tax treatment of foreign financial services/products, the exchange risk linked to a national currency, insufficient knowledge of cross-border redress procedures[74], different level of protection and uncertainty about consumer rights. This is corroborated by the results of Eurobarometer 205, where a significant share of respondents (72%) highlighted a range of concerns that point towards both types of obstacles. For example, 28% of respondents were concerned about not receiving clear or sufficient information on the product or service purchased from another EU Member State, 23% expressed a concern about the possibility of fraud or crime, 22% were concerned about possible language barriers affecting the purchase of the product or service, and 15% believed that there is less consumer protection in other EU Member States.

From the financial service providers' perspective, there were also barriers to offering financial services in another Member State (see Table 4). The natural obstacles include costs caused by organic factors, such as cultural differences, different languages and consumer bias for home products[75]. Policy-induced obstacles include information and adjustment costs caused by national differences in regulation, obstacles to cross-border information flow, competitive privileges of domestic suppliers and the costs of cross-border operations.

Table 4. Supply-side barriers to cross-border sales

Type	Barrier
Institutional and technical barriers	Lack of harmonised payment systems Tax problems Difficulties in concluding contracts electronically Need to maintain multiple channels for delivery and communication
Differences in law and regulation relating to financial services products	National anti-money laundering requirements, lack of harmonisation of relevant Member State legislation or absence of EU legislation Differences in consumer protection rules among different financial products and EU markets, regarding, for example, disclosure rules and withdrawal rights Inconsistency between regulation of face-to-face and distance selling
Difficulties in understanding/penetrating local domestic market	Legal uncertainty regarding the applicable law Lack of understanding of domestic retail financial services markets Difficulties in marketing in other Member States

Source: Final Report to DG SANCO (2008). Analysis of the economic impact of Directive 2002/65/EC concerning the distance marketing of consumer financial services on the conclusion of cross-border contracts for financial services between suppliers and consumers within the internal market.

[74] Heinemann, F. and Jopp, M. (2002). The Benefits of a Working European Retail Market for Financial Services.
[75] Heinemann, F. and Jopp, M. (2002). The Benefits of a Working European Retail Market for Financial Services.

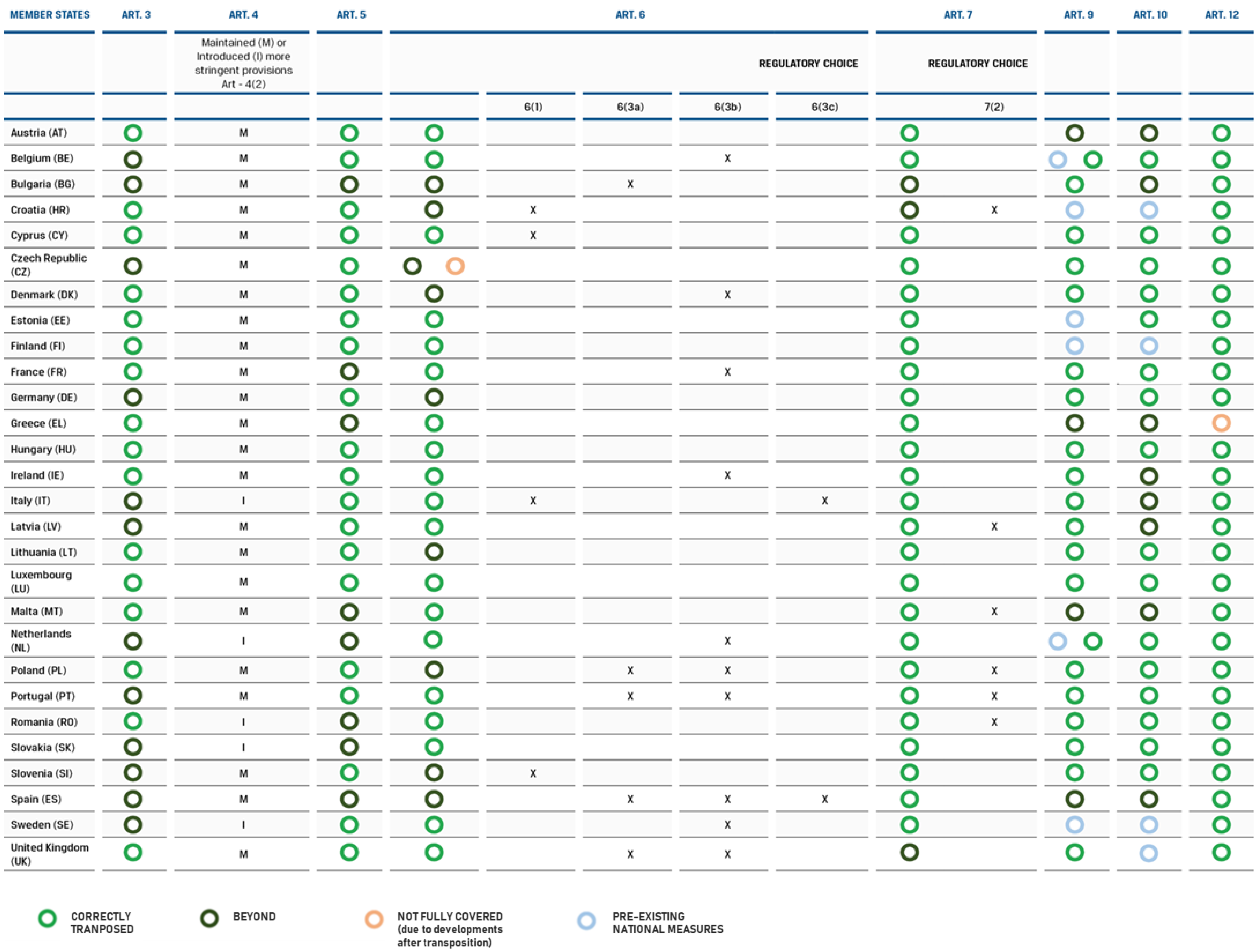
3 Implementation/state of play

3.1 Transposition of the Directive

The provisions of the DMFSD have been transposed into national legislation in all Member States. Although most replicated the provisions of Articles 3-10 literally, some Member States have laid down further rules to ensure more stringent guarantees for consumers. Eighteen Member States[76] made use of the regulatory choices set out in Articles 6(1)[77], 6(3)[78] and 7(2)[79].

[76] BE, BG, HR, CY, DK, FR, IE, IT, LV, MT, NL, PL, PT, RO, SI, ES, SE, UK.
[77] CY, HR, IT, SI.
[78] BE, BG, DK, ES, FR, HR, IE, IT, NL, PL, PT, SE, UK.
[79] HR, LV, MT, PL, PT, RO.

Figure 4. Overview of the DMSFD transposition status



Source: ICF (2019)

According to Article 21 DMFSD, Member States should have implemented the Directive by 9 October 2004. However, by the end of 2004, only 11[80] Member States had brought into force the national laws, regulations and administrative provisions necessary to comply with the Directive. Most Member States actually transposed the DMFSD in 2005 and 2006. Spain[81] and Luxembourg[82] adopted the Directive only after the Court of Justice of the European Union (CJEU) had decided on infringement cases against them, transposing the text in July 2007 and December 2006, respectively.

Generally, all of the Member States implemented the Article 12 provision on the imperative nature of the DMFSD's provisions, with the exception of Greece which excluded its paragraph 2[83].

Pre-contractual information

Article 3 of the DMFSD lays down a very detailed set of information that the seller must provide to the consumer before the conclusion of a distance contract. The framework is complemented by the provisions of Article 4 on additional information requirements, with paragraph 2 stating that Member States may maintain or introduce more stringent provisions on prior information requirements.

Article 5 of the DMFSD completes the legal framework laying down the rules on the communication of the contractual terms and pre-contractual information and was transposed correctly by all Member States. Article 5 paragraphs 1 and 2 establish that the service supplier is obliged to provide the pre-contractual information on paper or another durable medium available and accessible to the consumer in good time before they are concretely bound, or immediately after the conclusion of the contract if the means of communication used does not enable differently. Additionally, Article 5(3) allows the consumer, at any time during the contractual relationship, to receive, on request, the contractual terms and conditions on paper.

The legal analysis found that:

- All Member States transposed Article 3 correctly, with most implementing the measures verbatim. However, in some cases, the terminology was adopted in respect of the various legal traditions with no substantial changes in the content. Some Member States also give more detail, for additional clarity[84].
- Most Member States made use of the regulatory choice set out in Article 4(2), either maintaining pre-existing national provisions or introducing more stringent measures on pre-contractual information. Some Member States foresaw additional requirements that service providers should supply in the pre-contractual phase.

In some Member States, the legislator decided that further information elements should be included at the pre-contractual stage.

The Romanian transposition, for instance, states that the provider shall communicate the pre-contractual information and conditions in good time before the user becomes

[80] AT, CY, DK, EE, DE, LV, LT, PL, RO, SI, UK.
[81] C-141/06.
[82] C-127/06.
[83] Concerning Art.12.2, the Greek National Expert, confirmed that the paragraph 12(2) has been initially transposed into Greek Law and later abolished by paragraph 21 of article 5 of Law 3587/2007. The Greek National Expert clarified that it appears that the said paragraph was abolished due to the fact that a new paragraph ensuring the same level of protection was introduced. According to that new paragraph (paragraph 10 of article 14 of Law 2251/1994 as now stands), the choice by the contracting parties of a law of a country not belonging to the EU, cannot jeopardize the rights contained in the Directive, provided that the case in hand is closely related to the Greek legal order. However, in the opinion of the Greek National Expert, this provision does not seem to duly cover situations in which a case is related to another EU State, apart from Greece, as the Directive requires.
[84] In Romania, Article 8 of GO 85/2004 specifies the moment of the conclusion of the contract: *the moment of conclusion of a distance contract concerning financial services is the moment when the consumer has received the confirmation message regarding his order.*

part of an agreement or an offer, a timeframe that cannot be shorter than 15 days. The legislator also requires the provision of additional information related to the nature of the payment service, such as the form and procedure for expressing consent, the maximum term for performance, all of the coercive measures applicable to a payment instrument and the reimbursement provisions.

Spain and Sweden make use of the provision in Article 4(2), with measures to clearly identifying the financial services provider. In Sweden, the legislator states that the supplier shall provide the consumer with their telephone number or email address. Spain[85] also requires that where a representative of the supplier established in the consumer's Member State of residence intervenes, it is necessary to provide all the information contained in Article(3)(1)(1A), including their telephone number, fax number and, where appropriate, the consumer's email address.

Bulgaria[86] and Portugal[87] establish that the pre-contractual information, the terms of the contract and all other communications regarding the contract shall also be given to the consumer in their own national language.

Italy has introduced more stringent provisions on prior information requirements for financial services, as per Article 4(2). In particular, the service provider shall inform the consumer of the essential characteristics of the security requirements for the payment transaction and, in case of links with other financial services, they will expressly state the effects deriving from the eventual combination[88]. Slovenia establishes that any violation or non-disclosure of the pre-contractual information automatically constitutes unfair commercial practice, while Slovakia states that the obligation to inform the consumer can neither be overridden by invoking trade or professional secrets, nor limited or removed by contractual provisions[89].

In implementing Article 4, Slovakia and Latvia both state that the obligations of the supplier to provide the consumer with other information on financial services under the special regulations[90] is not affected by the provisions of the transposing measures.

Many Member States[91] impose additional requirements in respect of communicating the contractual terms and conditions or impose a penalty where the obligation is not sufficiently met.

Greece, for example, provides for invalidation in favour of consumers in cases where the pre-contractual information is not received promptly. In any case, withheld contractual terms are not binding on the consumer, even if they were not crucial factors for the formulation of their contractual will[92]. Similarly, Malta and Spain provide that where the supplier has not fulfilled his/her obligations under Article 5 of the DMFSD, the distance contract shall be annulled at the consumer's request or itself nullified[93].

Right of withdrawal

The right of withdrawal is expressly spelled out in Article 6 DMFSD. The Directive ensures that consumers have a period of 14 calendar days to withdraw from the contract concluded (30 days in distance contracts relating to life insurance c and personal pension operations), without penalty and without the need for justification. Article 6(2) lists the categories of products that do not fall within the scope of the Directive, such as financial services whose price depends on fluctuations in the financial market outside the

[85] Article 7(1) ADMCFS (see factsheet in Annex 8).
[86] Article 8(4) Distance Financial Services Act (see factsheet in Annex 8).
[87] Article 9 DL 95/2006 (see factsheet in Annex 8).
[88] Article 67-sexies Consumer Code (see factsheet in Annex 8).
[89] Article 6, Para 3 of GO 85/2004.
[90] Civil Code on insurance contracts; Securities Act on Investment Services Contracts.
[91] BG, FR, EL, MT, NL, RO, SK, ES.
[92] Article 4h (4.4a) Law 2251/1994
[93] Malta: Regulation 6(3) DS (RFS) Regulations; Spain: Article 9 ADMCFS (see factsheets in Annex 8).

suppliers' control, travel and baggage insurance policies or similar short-term insurance policies of less than one month's duration. Article 6(3) foresees a regulatory choice, allowing Member States to establish a set of exemptions to the right.

All Member States transposed Article 6 fully and correctly. However, Czechia initially implemented Article 6(2c) but later introduced legislation hampering its effect on financial services[94].

Some Member States have further defined strict rules[95] on the right of withdrawal where the service provider does not fulfil their obligations on pre-contractual information and/or communication of the contractual terms.

Member States to ensure consumers' access to these rights provide with remedies against the service providers when there are specific problems with the distance financial products acquired. Croatia, for instance, expressly provides that if a trader fails to fulfil any of the obligations provided for pre-contractual information and communication on durable means, the consumer is entitled to rescind the contract at any moment, without paying any fee or damage. De facto, the mentioned provision indefinitely extends the right of withdrawal in cases where the trader does not fulfil their information duties. Similarly, the Bulgarian and Czech legislators provide that in such cases of negligence, the consumer has the right to withdraw from the contract one month after the expiration of the regular 14-day term (30-days depending on the financial product) , and within three months from the date on which he became aware or should and could have become aware of the false information, respectively. Germany legislation foresees similar conditions, with the right of withdrawal of the consumer expiring at the latest 12 months and 14 days after the conclusion of the contract in case of deceptive information. However, the ECJ in 2013 in the context of a life-insurance contract found this time restriction to be contrary to European law[96] by the ECJ[97,]

In 2011, the European Commission referred Italy to the CJEU for inadequate transposition of the DMFSD in respect of the right of withdrawal from a car insurance contract where an accident had occurred during those 14 days and the right was not guaranteed. In 2012, Italy amended the previous provisions and ensured the proper implementation of the Directive[98].

Several Member States made use of the regulatory choices provided in Article 6(1) and 6(3)[99]. Croatia[100], Cyprus, Italy and Slovenia all chose to apply the option set out in Article 6(1) by means of specific national provisions.

Bulgaria, Poland[101], Portugal, Spain and the UK, as per Article 6(3a), established that the right of withdrawal does not apply to any credit intended primarily to acquire or retain property rights in land or an existing or projected building, or for renovating or improving a building.

According to Article 6(3b), Belgium, Denmark, France, Ireland Netherlands, Poland, Portugal, Spain, Sweden and the UK excluded the application of the right for any credit

[94] Concerning Art.6(2), the Czech National Expert indicated that originally the provision corresponding to Art.6(2.c) of DMFSD was implemented correctly to the Czech legal order (section 1837 letter a) of Civil Code), but then later, the legislation excluded its effects to financial services contracts with an amendment from 1 December 2018 of Civil Code. This situation does not have any effect on the implementation of other paragraphs of Article 6. In this context, the Czech National Expert concluded that, in his legal opinion, the mentioned provision is missing from the Czech legal framework.

[95] BG, HR, CZ, DK, DE, LV, PL, SI, ES.

[96] Council Directive 90/619/EEC of 8 November 1990 and Council Directive 92/96/EEC of 10 November 1992.

[97] Judgment of 19 December 2013, C-209/12 – Endress.

[98] Decree Law 18.10.2012, n. 179, converted into Law 17.12.2012 n. 221.

[99] BE, BG, HR, CY, DK, FR, IE, IT, NL, PL, PT, SI, ES, SE, UK.

[100] The Croatian legislator did not transpose Article 6 paragraphs 4, 5, 7, 8.

[101] Poland used the regulatory choice in an indirect way. According to Article 4(1) Act of 30 May 2014 on consumer rights (CRA), the entire act does not apply to contracts that concern ownership of immovables or other rights thereto. This encompasses the instances mentioned in Article 6(3)(a) and (b) DMFSD.

secured either by a mortgage on immovable property or by a right related to immovable property. Only Italy and Spain chose to apply the option set out in Article 6(3c).

Spain provides for additional exclusions of the right of withdrawal, which are not expressly foreseen by the DMSFD, such as pension plans, insurance contracts where the policy holder assumes the financial risk, insurance contracts whose effects finish before the withdrawal period, and insurance contracts that comply with a policy holders' obligation to insure.

Article 7 completes the legal framework on the right of withdrawal, setting out detailed rules on the payment for the service provided by the supplier before the consumer exercises their right. Paragraph 2 of Article 7 sets out a regulatory choice that allows Member States to exempt the consumer from paying any amount when withdrawing from insurance contracts.

All Member States transposed Article 7 almost literally, with only Croatia, Latvia, Malta, Poland, Portugal and Romania making use of the regulatory choice in Article 7(2).

On the other hand, Croatia and the UK have established further rules in this area. Croatia, in particular, sets out that the consumer is required to pay for the services already provided only if what they were given based on the contract cannot be returned. The UK states that the rule on the consumer's obligation to pay for the services de facto provided by the firm does not apply to distance contracts that concern life policies, personal pension schemes, cash deposit ISA, cash-only lifetime ISA or Child Trust Fund[102].

Ban on unsolicited communications and services

Articles 9 and 10 of the DMFSD lay down rules on unsolicited services and communications, respectively. More specifically, Article 9 states that Member States shall take the measures necessary to prohibit the supply of financial services to consumers without a prior request on their part where the supply includes a request for immediate or deferred payment. Article 10 requires the consumer's prior consent in cases where the supplier uses either automated calling systems or fax machines and states that such communications should be free of charge for the consumer.

Most Member States[103] transposed Articles 9 and 10 accurately, while others either chose not to implement them because of similar pre-existing national provisions[104]. Several Member States[105] introduced more stringent rules.

Croatia, Finland and Sweden did not implement Articles 9 and 10 because pre-existing measures were already in place at the time of the adoption of the DMFSD. Similarly, the UK did not transpose Article 10, as a provision on unsolicited financial promotions was already established in the national regulatory framework[106]. By contrast, the Austrian legislator, in addition to the provisions of Article 9, states that when a consumer receives unsolicited material, they are not obliged either to keep or return it.

For Article 10, Italy also gives the option to any subscriber whose telephone number is listed in a public telephone directory and who wishes not to receive unsolicited direct marketing calls and postal mail, to object to such calls by registering in a specific register. Accordingly, the consumer's prior consent is not needed for personal processing data of subscribers that have not joined that register.

[102] Rule 15.4.2, Rule 15.4.4 and Rule 15.4.5 COBS (see factsheet in Annex 8).
[103] AT, BE, BG, CY, CZ, DK, DE, EL, HU, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, ES.
[104] EE did not transpose Article 9 DMFSD. HR, FI, SE did not transpose Articles 9 and 10 DMFSD.
[105] AT, BG, DE, IE, IT, LV, MT, SI, ES.
[106] Promotions that are not in writing are generally covered by Rule 4.8.3 of COBS, banning both solicited and unsolicited financial promotions that are not in writing, to a client outside the firm's premises, unless the person communicating it clarifies whether the client would like to continue or terminate the communication and terminates such communication at any time at the client's request.

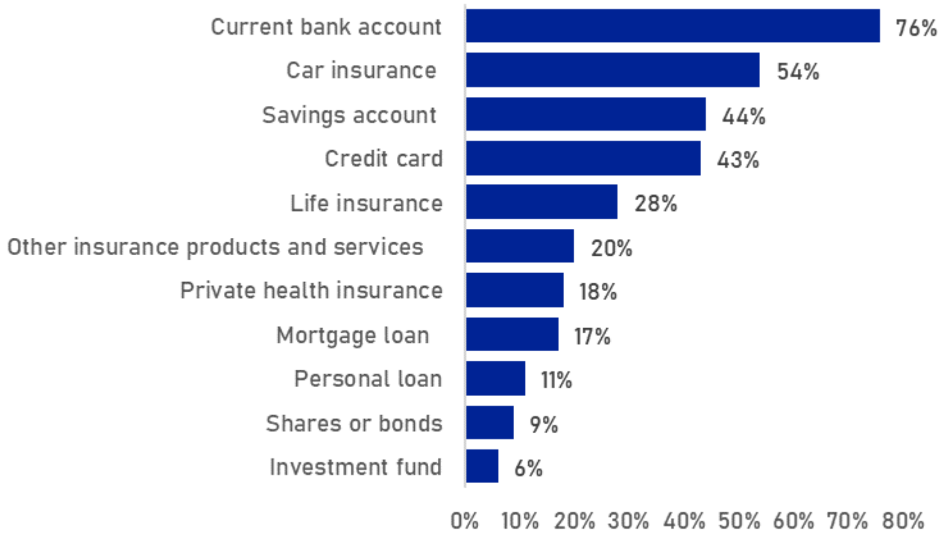
3.2 Market context and developments

The financial services sector

After the 2007-2008 global financial crisis which severely impacted the sector, the financial and insurance sector has recovered slowly but steadily and in 2018 it constituted 4.3% of the total market added value[107] and of the GDP of the EU-28. In terms of final household consumption expenditure in the EU, during 2005-2017, the average share of financial services and insurance services as a percentage of EU total household expenditure was 5.5%. Financial services alone (excluding insurance) represented an average of 2.8% of the total market household expenditure, slightly lower than the 2000-2004 average (3.1%) due to the significant negative impact of the financial crisis on this indicator in 2008-2009.

According to the 2016 Eurobarometer 446 Financial Products and Services survey, only 7% of consumers reported not having a financial service. The same Eurobarometer survey shows (see Figure 5) that current bank accounts are the most popular financial product in 2016 followed by car insurance, savings accounts and credit cards. Investment funds and shares and bonds were the least popular financial products.

Figure 5. Most common financial product in the EU-27 for 2016



Source: Eurobarometer 446 Financial Products and Services (2016)

Of the services/products owned by consumers at the time of the Eurobarometer survey in 2011, on average only 46%[108] were bought in the five years preceding the survey, suggesting that consumers purchase financial services infrequently.

Consumers tend to shop around[109] but about one-third of purchases are made without the consumer having received a recommendation. 17-38% of the purchases (depending on the type of financial service) were based on the advice of the financial provider.

Between 2010 and 2017, consumers surveyed by Consumer Markets Scoreboard considered it easier to switch financial provider yet, paradoxically, the percentage of those that did switch provider decreased for all financial services except mortgages[110].

[107] Eurostat (2019). Gross value added and income by industry breakdowns, nama_10_a10 (accessed on 7 October 2019).
[108] Eurobarometer 737 (2011), answer to question B4.
[109] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.
[110] Consumer Markets Scoreboard.

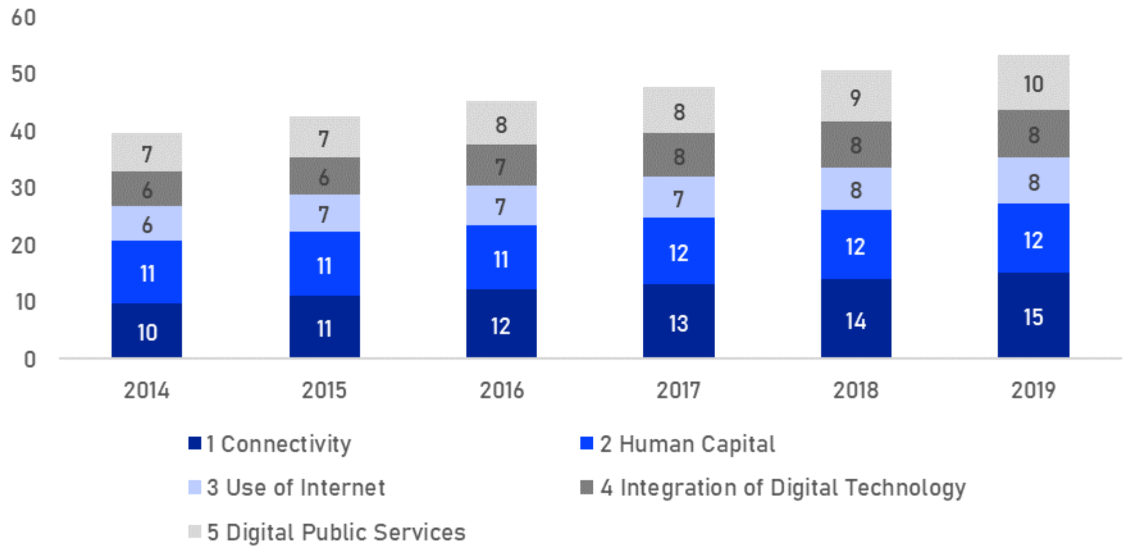
Distance marketing of financial services

While in the previous period (2000-2004) the digitalisation of financial services was still a relatively recent phenomenon, the period from 2005 to 2018 saw several substantial changes, in line with the development of new technologies.

Digitalisation of society

In the period from 2014 and 2019, the Digital Economy and Society Index (DESI, a composite index that summarises relevant indicators on Europe's digital performance and tracks the evolution of EU Member States in digital competitiveness) increased by 35% (see Figure 6).

Figure 6. Evolution of the Digital Economy and Society Index (DESI) in the period 2014-2019



Source: ICF (2019) elaboration of European Commission data[111]

In terms of digital inclusion, the share of EU citizens using the internet regularly (once a week up to every day) increased steadily from the period pre-2004 (baseline). For the EU-27, this share grew from 36% in 2004 to 65% in 2010 and 83% in 2018. Similarly, while in 2004 the share of individuals who had used the internet more than a year ago or had never used the internet was quite high (51% for the EU-27), this decreased to 39% in 2007, 24% in 2012, and 13% in 2018[112]. Another example is the share of individuals who ordered goods or services for private use over the internet more than 12 months ago or never ordered goods and services over the internet.[113] While in 2004 this represented a high share at 43% for the EU-27, this share decreased to 32% in 2012 and 27% in 2018. When looking at consumer attitudes towards financial activities, between 2004 and 2018 the percentage of individuals that used internet banking more than tripled reaching 54%.

Changes in the supply landscape

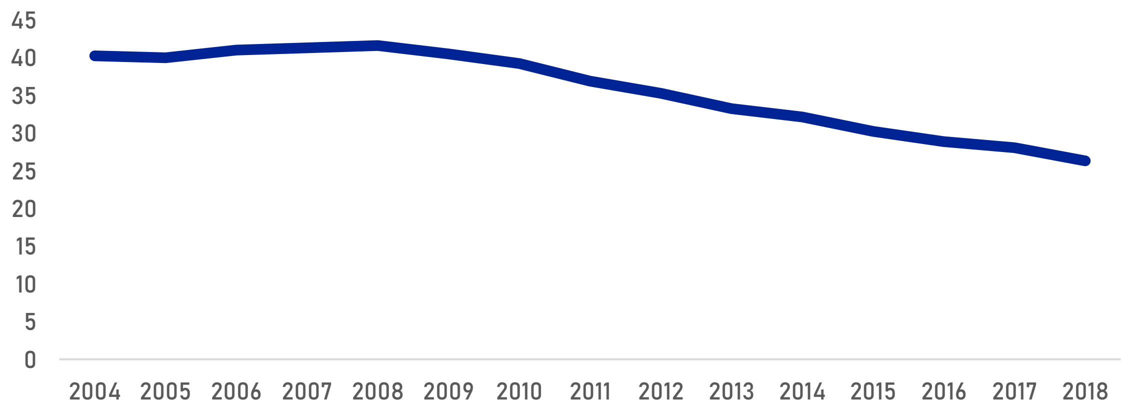
The supply side saw several changes linked to digitalisation. According to a Eurobarometer survey in 2016[114], the financial and insurance activities sector is the economic sector with the highest percentage of providers currently engaged in distance

[111] https://ec.europa.eu/digital-single-market/en/desi
[112] Eurostat (2019). Individuals – internet use, isoc_ci_ifp_iu.
[113] Eurostat (2019). Internet purchases by individuals, isoc_ec_ibuy.
[114] European Commission (2016). Retailers' attitudes towards cross-border trade and consumer protection.

selling (71% of the respondents) and currently selling via mobile commerce or e-commerce (50% of the respondents).

Currently, the majority of traditional EU financial providers tend to use online sales channels to sell domestically and cross-border (according to a Eurobarometer survey, in 2016, 57.3% considered offering services online[115]). While traditional providers continue to offer services both offline and online[116], they have been reducing their physical presence as shown by the significant drop in the number of local bank branches in the EU (more than one third since 2004) and the 4% drop in the number of ATM per 100,000 inhabitants in Europe since 2016[117].

Figure 7. Commercial bank branches (per 100,000 adults) in EU-28



Source: database World Development Indicators (2019)

At the same time, a key change during this period is the fast development of the FinTech sector, which changed the supply landscape in the financial services sector. While during 2000-2004 FinTechs were in their early stages in the EU, a wave of FinTech companies were established around 2011 following the end of the financial crisis. A mapping of providers of retail financial services using digital channels in seven EU countries[118] showed that of 114 new providers founded between 2006 and 2017, 10.5% were FinTechs[119]. These non-traditional providers chiefly use online channels for marketing and distribution of their financial services, with some offering their services exclusively online.

Currently, the FinTech sector has a considerable transaction value (about EUR 682 billion, slightly less than one third of the transaction value of the sector in the US and China[120]) and is forecasted to grow 13.3% by 2022. The total transaction value, the number of users and the transaction value per user are expected to keep increasing at least until 2023.[121]

According to the Global FinTech Adoption Index, money transfer and payments services were and still are the most popular FinTech service, growing from 18% in 2015 to 50% in 2017 and 75% in 2019. Insurance was the least commonly used service in 2015 (8%)

[115] European Commission (2016). Retailers' attitudes towards cross-border trade and consumer protection.
[116] The LE Europe study analysed 200 financial providers with an online (mobile and/or desktop) presence in seven countries and found that 91% of traditional providers used both offline and online channels.
[117] Statista (2019). European ATM numbers 2005-2018.
[118] DE, ES, FI, FR, LT, RO, UK.
[119] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services, p. 20.
[120] Statista (2018). Total value of investments into Fintech companies in Europe from 1st quarter 2010 to 4th quarter 2017 (in USD billion). Available at: https://www.statista.com/statistics/643100/vc-backed-fintech-companies-total-investment-europe/
[121] Statista (2019). Fintech Report 2019. Statista Digital Market Outlook.

but became the second most popular service in 2017 (24%) and 2019 (48%). Savings and investments were the second most popular in 2015 (17%) but decreased in popularity in 2017 (20%) and 2019 (34%)[122]. However, according to the findings of LE Europe (2019) with the exception of virtual currencies, peer-to-peer lending and payday loans, which are mostly or exclusively sold by non-traditional providers (which operate mostly online), all other services are offered by both types of providers, with traditional providers having a considerable higher market share[123]. The sub-sectors expected to contribute most to the growth of the FinTech sector are alternative financing (average forecasted growth of 32%), personal finance (36%), and alternative lending (31%). Digital payments (7.9%) and InsurTech (7.1%) are expected to grow steadily but at a slower pace, likely because they are the most developed sectors, which may result in a less steep growth curve but a higher market share[124].

Another key step in the evolution of the financial services sector was the introduction of virtual currencies[125]. This financial product has increased in popularity in recent years[126] and is mostly used in online games, social networks or as a general payment method. The market value of cryptocurrencies was reported to have exceeded EUR 7 billion worldwide in 2016. Another important development is the increased use of peer-to-peer lending (P2P lending), a consumer credit product that allows businesses and individuals to borrow money directly from other individuals ready to lend, avoiding the use of intermediaries. Europe has been a leading actor in the field of P2P lending, with the first such platform created in 2005[127]. P2P lending providers in the EU tend to be FinTechs and are more common in countries where the banking sector is less dominant[128]. In 2017, the P2P lending market in Europe was valued at EUR 3.8 billion and it is forecasted to reach 170% of growth by 2022.

Another development in the supply landscape relates to the diffusion of aggregator and comparison websites as distribution channels of financial services. Those can be divided into two big categories: websites that allow consumers to compare various offers from different providers but do not sell products directly (these may or not redirect consumers to the websites of the respective providers), and websites that allow consumer to compare and purchase products from various providers. Comparison websites in the context of financial services are seen "as intermediaries that simplify market operations and provide an economic advantage for both parts of the market" (Porrini, 2018)[129] and they can bring substantial benefits in increasing competition domestically and cross-borders[130]. They save consumers time (as they do not need to carry out an independent search of the available products), help them increase their awareness regarding what is available in the market, simplify the assessment of existing products and the selection of those that better fit their needs, encouraging them to switch. Financial providers also benefit from these websites as they allow them to reach a higher number of consumers. According the study of the European Commission 'Comparison Tools and Third-Party

[122] EY (2019). Global FinTech Adoption Index, p. 10.
[123] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services, p. 26.
[124] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[125] Virtual currencies can be defined, i.e. digital currency that is only available in electronic form. In 2012, the ECB defined them as 'a type of unregulated, digital money which is issued and usually controlled by its developers and used and accepted among the members of a specific virtual community'. See Digital Watch (2019). E-Money and virtual currencies. Available at: https://dig.watch/issues/e-money-and-virtual-currencies (accessed on 15 October 2019).
[126] ICF former confidential study.
[127] Alterinvesting (2018). European P2P Lending Market. Available at: https://alterinvesting.com/2018/12/02/european-p2p-lending-market/ (accessed on 15 October 2019).
[128] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[129] Porrini, D., 2018. The effects of innovation on market competition: the case of the insurance comparison websites. Marketing and Management of Innovations, 2018, Issue 3.
[130] European Commission, 2015. Green paper on retail financial services.

Verification Schemes', in 2013 20% of the consumers that had use comparison tools in the last 12 months, used a comparison website to compare financial services. In 2019, respondents to the OPC (consumers) indicated that they searched for information on comparison websites in 25% of the times. Comparison websites are common in the insurance sector[131], and the Payment Accounts Directive (PAD) established that at least one comparison website of bank account services should be available at national level.

<u>Evolution of sales using distance means of communication</u>

In 2011, the main products sold through distance means of communication were investment products (shares, bonds and investment funds), insurance products and credit cards. On average, online purchases outnumbered those made by telephone two to one (see Table 5).

Table 5. Distance sales of financial services in 2011

	Current bank account	Mortgage	Credit card	Personal loan	Shares or bonds	Investment fund	Life insurance	Other insurance products
Directly from the provider face-to-face	*85%*	*64%*	*70%*	*76%*	*35%*	*51%*	*51%*	*43%*
Directly from the provider by telephone	*2%*	*5%*	*5%*	*4%*	*4%*	*3%*	*6%*	*15%*
Directly from the provider online	*5%*	*1%*	*15%*	*6%*	*24%*	*12%*	*6%*	*18%*
Through an intermediary or advisor	*6%*	*29%*	*8%*	*13%*	*32%*	*33%*	*35%*	*22%*
Other	*1%*	*1%*	*1%*	*0%*	*4%*	*1%*	*1%*	*1%*

Source: Eurobarometer 373 (2011). Answers to question 5

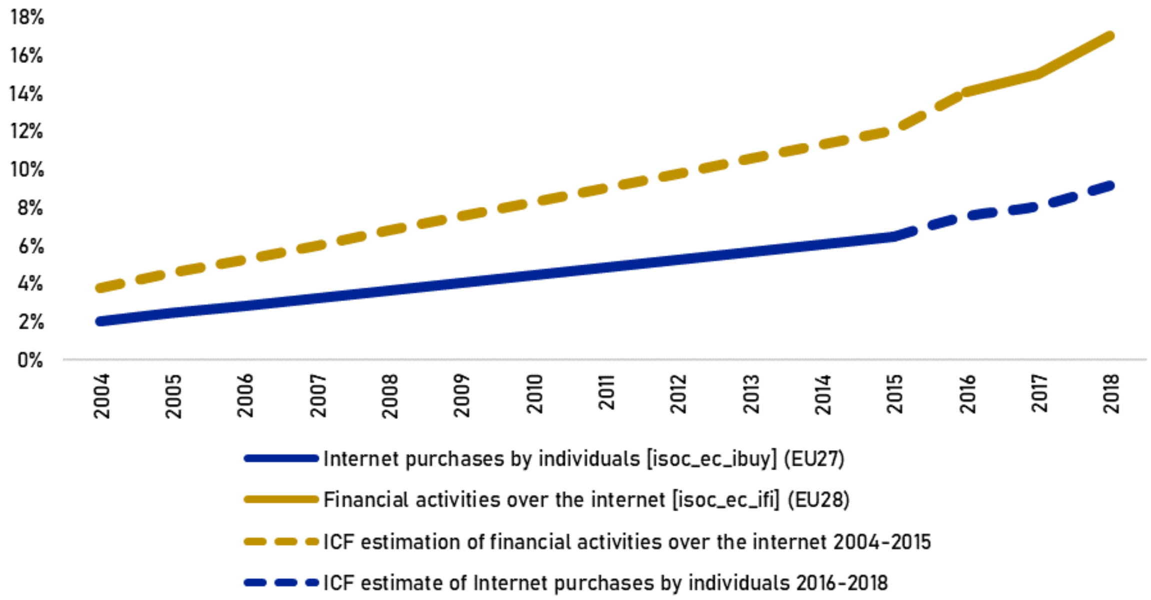
The market penetration of financial services provided online has increased between 2004 and 2018. While the Eurostat data on this indicator for the period 2004-2015 does not seem directly comparable with the data on this indicator for the period 2016-2018 (since the value for 2015 is 6% and the value for 2016 is more than twice that, at 14%), both show an upward trend in financial activities carried out over the internet.[132] In Figure 8, the Eurostat data available for 2004-2015 and 2016-2018 is presented. Additionally, the figure shows the ICF estimates for the dataset after/before the 20015/2016 discontinuity.[133] These estimates provide an upper and lower bound to the percentage of individuals that have purchased a financial service online in the 12 months prior to the survey.

[131] EIOPA report on Good Practices on Comparison Websites (January 2014). At the time the report was written there were: six countries with more than 20 comparison websites (CZ, ES, FR, NL, RO, UK), between 10 and 20 comparison websites in eight countries (DE, GR, HU, IE, IT, LV, PL, SK), twelve countries (AT, BE, BG, DK, EE, FI, HR, LT, MT, NO, PT, SE), with between 1 and 10 operating comparison websites, and no comparison websites in five countries (CY, IS, LI, LU, SI).

[132] While the question asked in the 2004-2018 surveys was identical, the prompts provided to the respondents were more detailed in the 2016-2018 surveys. Possibly, consumers were able to more easily realise that they had a financial service when provided with more details about what financial services can consist of.

[133] The estimates were done by: (1) extrapolating the data of the 2004-2015 dataset to 2016 using linear regression and then applying the yearly variation of the dataset 2016-2018 to extrapolate the estimated 2016 data point for that period; (2) extrapolating the data of the 2016-2018 dataset to the period 2004-2015 by applying the yearly variation of the dataset 2004-2016 obtained in the previous step to the 2016 data point.

Figure 8. Financial services purchases or activities over the internet between 2004 and 2018 (% of the EU population aged between 16 and 74)



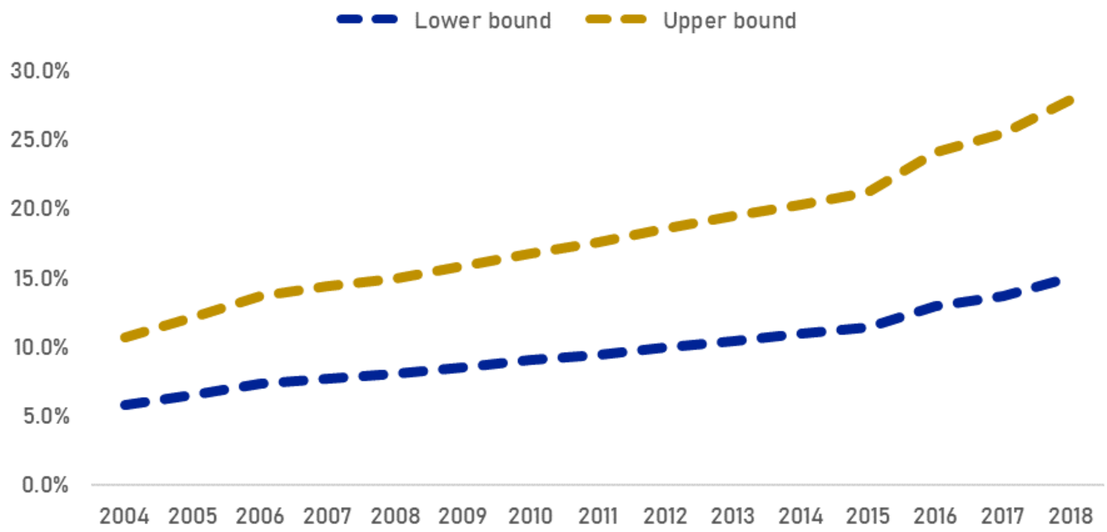
Source: Eurostat [isoc_ec_ifi] and [isoc_ec_ibuy]

Of the financial activities carried out over the internet in the period 2016-2018[134], the most popular were purchase or renewal of insurance (76%), purchase of investments (29%) and taking a loan or arranging credit (23%).

Using the data on the proportion of purchases of financial services over the internet (online and e-mail) on the total purchases financial services using distance means gathered in the consumer survey (i.e., 61% see Figure 9), it is possible to estimate that the percentage of individuals that in 2018 have purchased at least one financial service at a distance in the last 12 months is between 15% and 28(see Figure 9).[135]

[134] It does not include all financial services, such as payment services and pensions.
[135] The rational for this calculation is the following: if 9%-17% are online purchases, and those correspond to 61% of the distance purchases of financial services, then 9%/61%-17%/61% are distance purchases.

Figure 9. ICF estimation of distance sales of financial services between 2004 and 2018 (% EU population aged between 16 and 74)

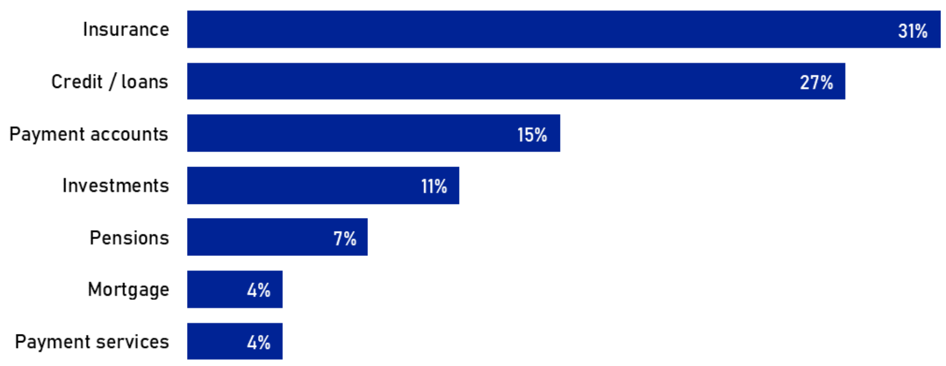


Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

Based on the results of the consumer survey, the consumers that end up buying a financial service at a distance represent about half of the consumers that use distance means of communication to search for financial services, as after carrying out the search 33% decide not to purchase the financial service and 19% decide to finalise the transaction face-to-face. The main reason why respondents chose not to purchase the service was because they had concerns about purchasing it at distance and the provider did not have a physical branch (43%).

According to the consumer survey, over the last five years, the most contracted/purchased financial service at a distance was insurance (31%), followed by credit/loans (27%) and payment accounts (15%). The least contracted/purchased services were payment services and mortgages (4%) and pensions (7%).

Figure 10. Distribution of the financial services contracted/purchased from a financial provider at a distance over the last year per type of service



Source: *ICF (2019). DMFSD evaluation - consumer survey (see Annex 4)*

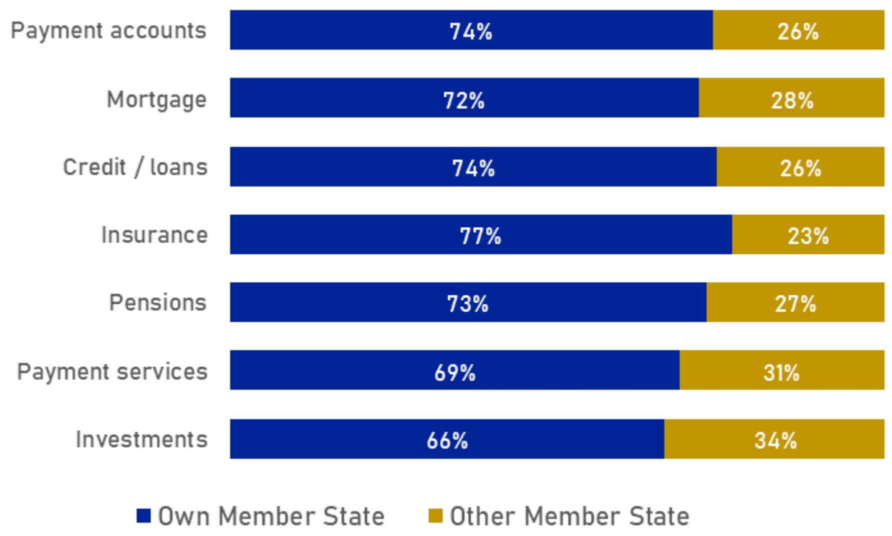
Cross-border sales

The share of EU citizens making cross-border purchases remained relatively low in 2005-2018, but a slight increase is visible between 2011 and 2016. According to the Eurobarometer surveys, in 2011 94% of respondents that had purchased financial products reported *not* having purchased these products from another Member State[136], while in 2016 this share decreased 2 percentage points to 92%[137].

According to the Eurobarometer surveys, current bank accounts remained the most popular type of financial services or products contracted in another EU country between 2003 and 2016, 3% in 2016. The second most popular financial services were credit cards, car insurance and investment funds, shares or bonds, all with an average 1% of respondents reportedly contracting at least one of those products from another Member state in 2016. When it comes to concerns about purchasing financial products and services in other EU countries, responses to the 2016 Eurobarometer 446 reflect a high share of respondents still preferring to make purchases in their own country. 33% of respondents stated that they can buy everything they need in their country, 21% preferred to buy financial products and services in their country, and 14% stated that they preferred to buy face-to-face. 56% of respondents reported at least one of these three reasons. In addition, 17% claimed that they do not have clear information, 16% are worried about fraud or crime, 13% do not know if their rights are protected and 12% experienced a language barrier.

Regarding cross-border purchases of financial services using distance means only 15% of the consumer survey respondents claimed to have already done so or tried to do so. While of the ones that did not try yet, 32% would do it to find better deals, the remaining respondents would not. The main reason indicated by respondents for not considering purchasing financial product at distance from another EU country was uncertainty about their rights or where to turn to get redress in case of a problem (35%), followed by the fact that they are satisfied with the services offered in their country (27%), that they prefer face-to-face contact (23%) and due to language barriers (15%). Of those that tried to purchase financial services in another Member State, the most common experiences were that they were redirected to a website that was specific to the country where they live (29%) or they could not access the website (19%). 20% of respondents reported difficulties in understanding the available information. Of the surveyed consumers that concluded the purchase of a financial products/service using a distance means of communication, a quarter did it from a provider in another Member State (see Figure 11).

Figure 11. Location of the provider of financial services purchased by consumers through distance means



Source: *ICF (2019). DMFSD evaluation - consumer survey (see Annex 4)*

136 Eurobarometer 373 (2011).

137 Eurobarometer 446 (2016).

Legislative developments

Since the adoption of the DMFSD, there have been significant changes to the legislative framework for financial services. The most relevant developments related to "consumer-facing" horizontal and product-specific legislation at EU level are summarised below.[138]

Horizontal legislation

Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (e-privacy Directive (EPD)) sets out rules to ensure security in the processing of personal data, the notification of personal data breaches, and confidentiality of communications. It also bans unsolicited communications where the user has not given their consent. EU countries are required to put in place a system of penalties, including legal sanctions for any infringements of the Directive. The scope of the rights and obligations of the EPD can only be restricted by national legislative measures where such restrictions are proportionate and necessary to safeguard specific public interests, for example national security, or to allow criminal investigations. The EPD affects the consumer credit, mortgage, insurance, payment accounts, investment products, payment services and personal pension sectors. The deadline for transposition of the EPD was 30 October 2003. The EPD interplays with the DMFSD in the context of Article 10 on unsolicited communications.

Another important horizontal piece of legislation was Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive (UCPD)). The objective of this Directive was to boost consumer confidence and make it easier for businesses – particularly small and medium-sized enterprises (SMEs) - to trade across borders. It enables national enforcers to limit a wide range of unfair business practices, such as providing untruthful information to consumers or using aggressive marketing techniques to influence consumer choices. The deadline for transposition of this Directive was 12 June 2007. The UCPD expressly replaces Article 9 of the DMFSD on unsolicited services and interplays with the DMFSD in the context of Article 10 on unsolicited communications.

A further legislative development was Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (the Consumer Rights Directive or CRD). This Directive has been recently amended by the "New Deal for Consumers". This Directive gives consumers the same rights across the EU. It provides harmonisation for national consumer rules, for example, on the information that consumers need to be given before they make a purchase, as well as their right to cancel online purchases. It applies to all contracts concluded between a 'consumer' and a 'trader', for both distance and off-premise contracts and those contracts which are not distance or off-premise. The deadline for transposition was 13 June 2014. This Directive does not apply to contracts in the area of financial services.

Also relevant is Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 (currently under review) on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No

[138] The legal instruments were selected with the main purpose to look at the possible overlaps and incoherence with the DMFSD. Therefore, the focus is on the "consumer facing" legal instruments that had similar provisions.

2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (the Geo-blocking Regulation). This Regulation addresses the unjustified online sales discrimination which sometimes takes place based on customers' nationality, place of residence or establishment within the internal market, by banning the practice of geo-blocking. It applies from 3 December 2018 onwards. The Directive does not apply to access to retail financial services, including payment services.

Lastly, another important piece of legislation is Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation or GDPR). The GDPR sets out a global data protection standard to provide EU citizens with more control over their own personal data and to improve their security online and offline. It has been applicable since 25 March 2018. The GDPR interplays with the DMFSD in the context of Article 10 on unsolicited communications and in the context of pre-contractual information requirements because it introduces the transparency principle and the obligation to provide information on the collection and processing of personal data when personal data has or has not been obtained directly from the data subject.

Product-specific legislation

One product-specific development in the credit sector is Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Consumer Credit Directive or CCD). The CCD aimed to strengthen consumer rights and to help consumers to make informed choices when signing up to a credit agreement. It stipulates that before a consumer signs an agreement, the lender must provide the consumer with standardised information to make it easy for the consumer to compare offers. The lender should also state the annual percentage rate of charge (APR), which informs consumers of the total cost of the credit. In addition, the consumer can cancel the agreement within 14 days of its signature. The CCD interplays with the DMFSD on the provision related to pre-contractual information (Articles 3, 4 and 5) and right of withdrawal (Articles 6 and 7) in the context of consumer credits above EUR 200 and below EUR 75,000.

In the mortgage sector, there is Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (the Mortgage Credit Directive or MCD). The aim of this Directive is to ensure that all consumers who take out a mortgage to purchase a property are adequately informed and protected against the risks implied. The Directive applies to all loans made to consumers for the purpose of buying a home and it provides for better information to consumers on available mortgage products including an obligation on lenders to provide ESIS; a guaranteed period of reflection or a right of withdrawal and new EU-wide standards to assess the credit worthiness. This Directive applies since 20 March 2014 and had a transposition deadline of 21 March 2016. The MCD interplays with the DMFSD as it also regulates the provision of pre-contractual information (Articles 3, 4 and 5 of DMSFD) and the right of withdrawal (Articles 6) in the context of mortgages.

In the field of investment, an important piece of legislation is Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). This Directive lays down uniform rules on investment funds, allowing for the cross-border offer of investment funds regulated at EU level. Its main aims are to offer investors a wider choice of products at a lower cost through better investor information, more efficient fund supervision, a more efficient UCITS market in the EU, and to keep the EU's investment sector competitive by adjusting the rules to market developments. In particular, this Directive lays down rules on investor information via a standardised summary information document to make it easier for the consumer to understand the product, a genuine European passport for

UCITS management companies, marketing of UCITS in other countries, mergers of UCITS in other countries, and stronger supervision of UCITS and the companies that manage them. The UCITS interplays with the DMFSD in the context of pre-contractual information (Articles 3, 4 and 5 of DMSFD) for collective investments in transferable securities.

Another development in the investment field is Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (AIFMD) and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010. This Directive establishes a legal framework for the authorisation, supervision and oversight of managers of a range of alternative investment funds (AIFM), including hedge funds and private equity. The Directive does not apply to holding companies, management of pension funds, employee participation or savings schemes, supranational institutions, national central banks and insurance contracts. Some key points provided by the Directive are the fact that fund managers are required to obtain authorisation from the competent authority of their home EU country in order to operate in the EU, and must hold a minimum level of capital in the form of liquid or short-term assets. AIFMs are required to ensure that the funds they manage appoint an independent depositary, such as a bank or investment firm responsible for overseeing the fund’s activities and ensuring that its assets are appropriately protected. The Directive also covers elements relating to risk management and prudential oversight, treatment of investors, leveraged funds, private equity funds and opt-outs for smaller funds. The deadline for transposition was 22 July 2013. This Directive interplays with the DMFSD in the area of pre-contractual information (Articles 3, 4 and 5 of DMSFD).

Also relevant is Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs). This Regulation obliges those who produce or sell investment products to provide retail investors with ‘key information documents’ (KIDs) about the products. The aim is to help investors to understand and compare the key characteristics and risks of these products. This Regulation applies since 1 January 2018. The PRIIPs interplays with the DMFSD on pre-contractual information (Articles 3, 4 and 5 of DMSFD) in the context of packaged retail and insurance-based investment products.

Another relevant piece of legislation is Regulation (EU) 2017/1129 (Prospectus Regulation) of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC. This Regulation aims to help companies, especially SMEs, to access different forms of finance in the EU. It simplifies and streamlines the rules and procedures that must be applied when drawing up, securing approval and distributing the prospectus published when offering securities to the public. It repealed Directive 2003/71/EC with effect from 20 July 2019. This Regulation interplays with the DMFSD on pre-contractual information (Articles 3, 4 and 5 of DMSFD) and on the right of withdrawal (Articles 6 and 7).

Lastly, another piece of legislation of importance in the field of investments is 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 (the Market in Financial Instruments Directive or MiFID). This Directive aims to make financial markets in the EU more robust and transparent, creating a new legal framework that regulates trading activities on financial markets and enhances investor protection. The Directive closes loopholes in the structure of financial markets, establishing the Organised Trading Facility (OTF), a new regulated trading platform established to capture a maximum of unregulated trades. The measures of this Directive also seek to limit speculation on commodities, adapt rules to new technologies and reinforce investor protection. It revised the legislation currently in place and entered into force in January

2018. This Directive interplays with the DMFSD on pre-contractual information (Articles 3, 4 and 5 of DMSFD) in the context of investment products.

In the area of payment accounts, there is 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 (the Payment Accounts Directive (PAD)). This Directive amends aims to tackle three main issues: access to basic payment accounts, transparency and comparability of payment account fees, and bank account switching. It provides access to a bank account to anyone residing legally in the EU, as long as they comply with anti-money laundering rules. It also provides several tools to make fees clearer for consumers. It has applied since 17 September 2014 and its transposition deadline was 18 September 2016. Another development is Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes. This Directive seeks to protect depositors of all credit institutions, partly to safeguard the stability of the EU. The deadline for transposition was 3 July 2015. The Directives interplays with the DMFSD regarding the provision of pre-contractual information (Articles 3, 4 and 5 of DMSFD) for payment accounts.

Another relevant piece of legislation is Directive (EU) 2015/2366 (PSD II) of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (the Payment Services Directive or PSD I[139]). This Directive provides the legal foundation for the development of a better integrated internal market for electronic payments within the EU, seeking to improve existing EU rules in the area. It sets out comprehensive rules for payment services, aiming to make international payments within the EU as easy, efficient and secure as payments within a single country. It seeks to open up payment markets to new entrants, leading to more competition, greater choice and better prices for consumers. It also provides a legal platform for the Single Euro Payments Area (SEPA). The PSD II (as PSD I) interplays with the DMFSD provisions on pre-contractual information (Articles 3, 4 and 5 of DMFSD), right of withdrawal (Articles 6 and 7) and unsolicited services (Article 9) in the context of payment services.

In the field of insurance, the Solvency II Directive (Directive 2009/138/EC) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) and the Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (Insurance Distribution Directive (IDD))(recast) are relevant. The Solvency II covers non-life insurance, life insurance and reinsurance companies and aims to ensure that insurance companies hold enough financial resources, and it also sets out management and supervisory rules. It applied from 1 January 2016 and the deadline for transposition was 31 March 2015. This Directive interplays with the DMFSD provisions on pre-contractual information (Articles 3, 4 and 5 of DMFSD) and right of withdrawal (Articles 6 and 7). The IDD aims to improve the way insurance products are sold so that they will bring real benefits to consumers and retail investors in the EU. It provides for measures that will bring greater transparency and better and more comprehensible information. It also provides rules on transparency and business conduct to prevent customers from buying products that do not meet their needs. It applied from 22 February 2016 and the deadline for transposition was 23 February 2018. This Directive interplays with the DMFSD on pre-contractual information (Articles 3, 4 and 5 of the DMFSD).

[139] Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, also required that some information had to be provided to electronic money holder before he/she being bound by any contract or offer.

In the area of personal pension products, there is the Regulation on a pan-European Personal Pension Product (PEPP, 2019/1238). The Regulation seeks to complement the current divergent rules at EU and national level by adding a pan-European framework for pensions. It seeks to offer a new voluntary framework for saving, by ensuring sufficient consumer protection when it comes to the essential features of the product. The idea is to create a quality label for EU personal pension products and thereby increase trust among consumers. This Regulation interplays with the DMFSD on the requirement to provide pre-contractual information (Articles 3, 4 and 5 of the DMFSD) for personal pensions.

3.3 Infringements and main complaints

Infringement procedures at European Level

In 2006, the CJEU intervened to compel Spain and Luxemburg to adopt the national laws, regulations and administrative provisions needed to comply with the DMFSD, as the deadline for transposition was 9 October 2004. Both countries transposed the text of the Directive, in July 2007 and December 2006, respectively.

In 2011, the European Commission found that Sweden had failed to fulfil its obligations under the DMFSD, introducing right of withdrawal provisions that went beyond those laid down in Article 7(1) of the Directive. The national legislation provided that if a consumer exercises his right of withdrawal, a trader could require the consumer to pay for that part of the financial service already supplied, as well as payment of reasonable costs for services relating to the time before the trader accepted the consumer's confirmation of their withdrawal. As Sweden had failed to fulfil its obligations under Directive 2002/65/E, it was condemned to pay the costs.

Also, in 2011, the European Commission referred Italy to the CJEU for inadequate transposition of the DMFSD, concerning the right of withdrawal from a car insurance contract, whereby the right was not guaranteed if an accident took place during those 14 days. In 2012, Italy amended the previous provisions and ensured the proper implementation of the Directive.

Other cases were brought before the CJEU on the right of withdrawal, with judgments still pending for Case C-66/19. Case C-301/18 revolves around the interpretation of Article 7(4) of the DMFSD, on the supplier's obligation to return to the consumer any sums they have received. Another question of interpretation was raised before the CJEU in 2018. Case C-639/18, which is still pending, refers specifically to the meaning that should be attributed to 'distance contract', as per Article 2(a) of the DMFSD.

Case-law at EU and national level

There are a few instances of case law at EU level on the right of withdrawal, inertia selling and the definitions of 'durable medium' and consumer.

The 2019 judgment in case C-143/18 – Romano on the right of withdrawal clarified that Article 6(2)(c) of the DMFSD excludes the right of withdrawal where a contract has been fully completed at the explicit request of the consumer, and therefore any national provisions, law or jurisprudence on the right of withdrawal stating otherwise would be contrary to that provision and should be amended. In the same ruling, the Court clarified the concept of consumer, i.e. 'an average, reasonably well-informed and reasonably observant and circumspect customer, in accordance with Union law'.

In joint cases C-54/17 - Wind Tre and C-55/17 – Vodafone Omnitel, in 2018 the court ruled on whether SIM cards that contain pre-installed and pre-activated services are consider to have failed to give prior information to consumers and thus whether the concept of 'inertia selling' can be applied to these cases and providers penalised accordingly. The court ruled that although the concept of 'inertia selling' must be interpreted as including SIM cards that contain pre-installed and pre-activated services, the National Regulatory Authority is not competent to penalise such conduct.

In case C-375/15 – BAWAG, the court was asked to decide whether information given through an e-banking mailbox is 'provided' (as opposed to merely being 'made available') through a 'durable medium'. The court ruled that the information transmitted by a payment service provider to the e-banking mailbox of the customer constitutes information on a 'durable medium'[140]. However, information concerning changes to a framework contract transmitted by a payment service provider solely through an e-banking mailbox were not considered 'provided' but merely 'made available' to a payment service user. The decision was based on Article 44(1), in conjunction with Article 41(1) and Article 4(25) of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC.

Finally, another case (C-49/11 – Content Services), in the context of Article 5(1) of Directive 97/7/EC but whose ruling refers to Article 2(f) of Directive 2002/65/EC, requests clarification on the concept of 'durable medium'. In 2012, the Court considered that making information accessible to the consumer only via a hyperlink to a website does not mean that that information was 'given' by that undertaking and 'received' by the consumer. Furthermore, the court ruled that a 'ordinary website'[141], such as that at issue in the main proceedings, cannot be regarded as a 'durable medium' within the meaning of Article 5(1) Directive 97/7/EC nor Article 2(f) of Directive 2002/65/EC (that confirms the definition in that Article). The same approach was followed by the Court of the European Free Trade Association (EFTA) in Case E-4/09 – Inconsult Anstalt v Finanzmarktaufsicht[142], in interpreting the concept of 'durable medium' under Directive 2002/92.

In case C-209/12 – Endress, the ECJ analysed whether a limitation of one year to exercise the right of withdrawal for life insurance contracts when there is a lack of compliance with the obligation to provide pre-contractual information on the right of withdrawal is in line with the Second and Third life Assurance Directives[143]. In this case, the court ruled that the withdrawal right, which is expressly conferred by the Directives, could not be restricted for reasons of legal certainty.

Two applications from 2018 are still awaiting a decision[144]:

- Case C-639/18: whether a 'contract concerning financial services' within the meaning of Article 2(a) of Directive 2002/65/EC can be considered to exist if an existing loan agreement is amended solely with regard to the agreed interest rate (follow-up interest agreement), without extending the term of the loan or altering the amount of the loan.
- Case C-301/18: whether Article 7(4) of Directive 2002/65/EC can be interpreted as precluding the legislation of a Member State that provides that, after withdrawal from a distance consumer loan contract has been declared, the supplier must also pay the consumer, beyond the sum he has received from the

[140] 'Provided that the e-banking mailbox enables the payment service user to store information personally addressed to him in a way which is accessible for future reference for a period of time adequate in the light of the purposes of the information. It must furthermore allow the unchanged reproduction of the information stored, thus preventing the service provider from accessing, modifying or erasing that information. An e-banking mailbox can also constitute a suitable channel for the transmission of information in the form of electronic documents if those documents themselves comply with the requirements of being a "durable medium" and if such a system incites the user to electronically store and/or print those documents through an easily accessible function.'

[141] 'Content services refers to a 2007 report of the European Securities Markets Expert Group (ESME) that distinguishes between 'ordinary websites' and 'sophisticated websites' and that considers some sophisticated websites can constitute a durable medium.'

[142] Case E-4/09 *Inconsult Anstalt* v *Finanzmarktaufsicht* [2010], EFTA Court Report, p. 86.

[143] Council Directive 90/619/EEC of 8 November 1990 and Council Directive 92/96/EEC of 10 November 1992.

[144] The cases were still in progress on January 2020.

consumer in accordance with the distance contract, compensation for the benefit of use in respect of this sum.

Regarding case-law at national level, the provisions of pre-contractual information and right of withdrawal are the legal obligations that have triggered most of the DMFSD-related case-law in the Member States.

A relevant case was that of Bulgaria's Sofia Regional Court[145] on pre-contractual information on loans. The loans were given by a website with a Bulgarian domain that did not contain the address of its supervisory board and whose language for communication was not indicated. The Court concluded that this constituted a minor violation of the national provisions transposing Article 3 of the DMFSD. However, the Court stated that the incompleteness contested by the consumer was insignificant and did not affect his rights, nor did it compromise his right to decide whether the applicant company has an authorisation for the service offered by the competent supervisor. The Court decided that that all of the essential information had been made public and revoked the administrative penalty initially imposed by the Consumer Protection Commission.

In 2013, in the Netherlands[146], an association representing the interests of several investors took action against a company, complaining that an investment bank had violated the duties on information provision and misleading advertising because:

- the prospectus was not available via the company's website;
- the information provided was not understandable for an average consumer;
- the information was solely provided in English;
- the risks of the financial product were not detailed enough;
- the prospectus indicated that a second entity was responsible for guaranteeing the return on investment.

In conclusion, the Court ruled that the information provision as a whole (form and content) was sufficiently understandable for an average, non-professional consumer and did not create wrongful impressions on the function and risks of the offered product.

In Slovenia[147] in 2018, a court was asked to rule on whether a credit institution had provided enough information on the risks of a loan taken in a foreign currency. The court ruled that contract terms of a credit agreement need to be written in clear and understandable language, which means that financial institutions must provide the borrowers with information that is sufficient to make informed decisions. The court concluded that the information received at pre-contractual stage did not allow the consumer to understand the currency fluctuation risks and ruled that this was against the information obligations at the pre-contractual stage, which binds all business entities to provide detailed information that allows consumers to assess the potentially significant financial consequences of those fluctuations. In a similar case in Greece, the court also ruled that providers have a duty to give information to consumers on the dangers associated with the financial services/products.

In Bulgaria, the court was asked to rule on a case related to whether an activation of a confirmation link by a consumer - made available by the provider in the email sent to the consumer with the terms of the contract - could be considered explicit consent. According to the court, activation of a confirmation link is not sufficient to prove that the consumer was aware of the terms of the contract or that the consumer explicitly accepted them.

Regarding Article 3 (3)(b) DMFSD, a German court ruled that when contacting the consumer by telephone, only the identity of the entrepreneur and the business purpose

[145] Decision No. 172218/14 July 2017 of Sofia Regional Court (Софийски Районен Съд).
[146] Court of Appeal, Amsterdam, 14 May 2013. Available at:
https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHAMS:2013:CA3906
[147] VSL Sodba II Cp 1926/2017, 21 March 2018.

must be disclosed, not the identity of an employee calling on the entrepreneur's behalf, who is not himself an entrepreneur.

Regarding the definition of 'durable medium', an Austrian court clarified that such medium must enable the consumer to store the information for as long as this is relevant to safeguard their interests (time of contract negotiations, duration of the contract). The service provider's website must allow the unchanged reproduction of the stored information, with the consequence that the information stored cannot be unilaterally changed by the company[148].

Some examples of national rulings on the right of withdrawal are:

- In Denmark, the court ruled that no right of withdrawal applies to agreements on securities or financial services if the price of the security or service depends on fluctuations in the capital market over which the supplier does not have influence and which may occur during the withdrawal period. Similarly, the Spanish Supreme Court (Civil Chamber) has ruled that the exclusion to the right of withdrawal applied to a swap contract concluded via phone.
- In Estonia, a court decided that a consumer must declare their intent to withdraw in a non-ambiguous form to the contract partner, otherwise the request is considered void.
- In Germany, a court ruled that the replacement of the loan before the withdrawal is declared does not preclude the effective revocation, thus the right of withdrawal as defined in the DMFSD still applies.

[148] EFTA-GH, Urteil vom 27 January 2010, E 4-09.

4 Study findings

This section presents the key findings per evaluation criterion and related evaluation questions:

- Relevance:
  - EQ1. To what extent the objectives of the DMFSD correspond to the initial and current needs of EU consumers and financial service providers?
  - EQ2. To which extent is the DMFSD relevant in light of legal developments that have occurred since its adoption?
- Effectiveness:
  - EQ3. To what extent have Member States implemented the DMFSD?
  - EQ4. To what extent have financial service providers complied with the DMFSD?
  - EQ5. To what extent have the objectives of the DMFSD been achieved?
  - EQ6. To what extent can the achievements be attributed to the adoption and implementation of the DMFSD?
- Efficiency:
  - EQ7. What are the costs and benefits (monetary and non-monetary) attributable to the DMFSD as opposed to product-specific legislation?
  - EQ8. Are the costs of the Directive proportionate to the benefits generated (both monetary and non-monetary)?
  - EQ9. [Simplification and burden reduction] Are there opportunities to simplify the legislation or reduce unnecessary/disproportionate costs and burden on some stakeholders without undermining the effectiveness of the Directive?
- Coherence:
  - EQ10. To what extent have the elements of the DMFSD worked together and between themselves? What is the level of clarity of the Directive?
  - EQ11. To what extent have there been synergies and/or overlaps with EU horizontal legislation (e.g., consumer acquis, geo—blocking, data protection rules, e-commerce Directive)?
  - EQ12. To what extent have there been overlaps, inconsistencies and gaps with EU product-specific legislation?
  - EQ13. Is the DMFSD coherent with national consumer protection legislation and product-specific legislation?
- EU added value:
  - EQ14. What is the added value delivered by the DMFSD and its implementation over and above what could reasonably have been expected from national legislation in the Member States alone? Is there evidence of clear benefits from EU level action (e.g. in terms of the consolidation of the internal market)?
  - EQ15. What would be the most likely consequences of withdrawing the Directive assuming that product-specific legislation and horizontal legislation stays in place? Would the interests of consumers be significantly damaged?

4.1 Relevance

The **relevance** evaluation criteria look into the needs and problems of the target groups, and assess to what extent the DMFSD is in line with those needs and has contributed to address them.

4.1.1 EQ1. To what extent did the objectives of the DMFSD correspond to the initial and expected needs of EU consumers and financial service providers?

Main findings

The assessment found that the objectives of the DMFSD were in line with the expected needs of consumers and financial service providers at the time the Directive was introduced.

Developments in the market (mostly due to the increasing digitalisation) and the emergence of new selling practices on the one hand and new insights from studies in the area of consumer behaviour on the other hand, reveal that some consumer needs are currently not fully addressed by the DMFSD. Additionally, the implementation of EU horizontal and product-specific legislation since 2004 has contributed to address consumer and providers' needs originally addressed by the DMFSD and therefore reduced the relevance of the Directive (see EQ2).

Consequently, the evaluation concludes that the objectives of the DMFSD are partially in line with the current needs of providers and consumers. However, despite later development of product specific legislation, the Directive provides a sound safety net to capture the distance selling of any new financial services/products and ensure that a solid consumer protection framework is in place.

The objectives of the DMFSD are to increase consumer protection in the distance selling financial services market in the EU and to promote the consolidation of the single market of financial services in the face of the growing digitalisation of society (see intervention logic in Section 2.2). These objectives were primarily defined to address:

- Existing and expected problems faced by consumers when purchasing financial products using distance means of communication;
- Low reported levels of consumer trust when buying financial services particularly cross-border and at distance (for example due to lack of harmonisation of legislation);
- Legal barriers faced by providers when trying to sell financial services cross-border due to fragmented national legal frameworks;
- Possible unfair competition from new players or new financial products due to legal loopholes.

At the time the Directive was proposed (and introduced), these needs were not considered satisfactorily addressed by the scant EU and national horizontal and product-specific legislation covering distance marketing of financial services. Although these needs could not be fully addressed though legislation (e.g. due to the existence of natural barriers, such as language and low financial literacy levels), addressing them required the definition of minimum harmonisation standards for the distance selling of financial services through a horizontal and technology-neutral approach that ensured adaptation to new markets (e.g. new players, new services/products, new distribution channels) and technological developments over time.

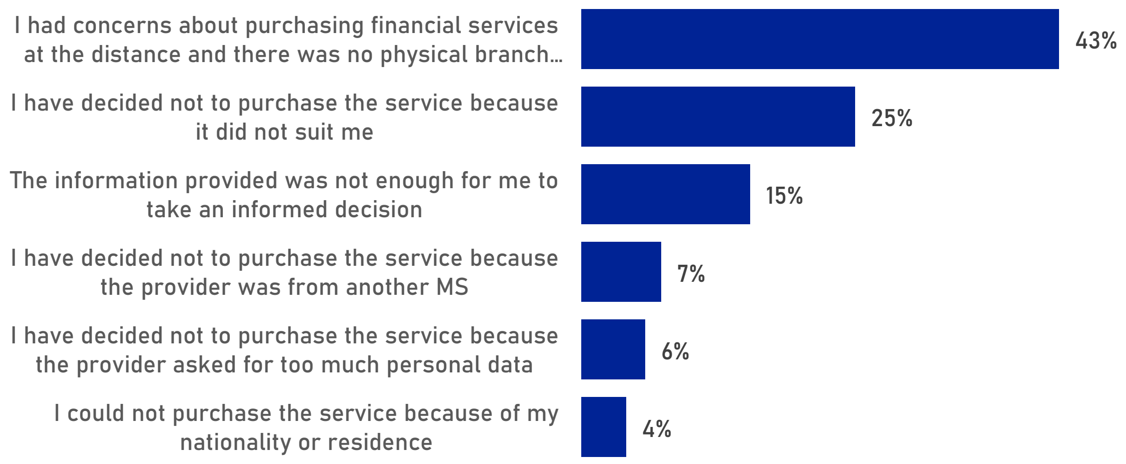
Since the transposition of the Directive, significant developments have impacted on the market for distance marketing of financial services (see Section 3.2). This includes the increasing digitalisation of society and digital literacy levels[149], the use of smartphones and other devices, the profiling of users based on personal data, non-traditional players

[149] The extent of this development differs across Member States, services and stages of the purchase process. See, for example, COM(2017) 139 final, Communication from the Commission – Consumer Financial Services Action Plan: Better Products, More Choice.

gaining ground (e.g. FinTechs, comparison websites) and implementation of EU horizontal and product-specific legislation. This period is characterised by significant financial innovation in terms of the services/products offered (sometimes very complex), providers and distribution channels[150]. At the same time, consumers still have limited financial literacy and are not completely equipped to make fully informed decisions[151]. Cross-border sales of financial services using distance means of communication did not increase as much as expected and remain very limited (see Section 3.2)[152].

The consumer survey identified the main reasons that consumers decide not to conclude a distance contract, namely concerns about the provider not having a physical branch, the unsuitability of the service and the insufficiency of the information provided.

Figure 12. Reasons consumers decided not to conclude the purchase of a financial service at a distance



Source: ICF (2019) Consumer survey.

Overall, the basic needs of consumers and financial providers in the context of consumer protection and consolidation of the internal market do not seem to be substantially different from those anticipated by the Commission at the time the Directive was introduced. However, the landscape has changed significantly: (1) digitalisation evolved faster and further than might have been foreseen at the time, and (2) other EU legislation in the area of financial services and horizontal matters was introduced in the meantime that also (partially) addresses those needs. Recent research has helped to better understand the needs and ways to address them.

In spite of these developments, the evaluation concludes that the DMSFD and its objectives remain relevant to some extent. This is in line with the opinion of a significant majority of stakeholders. An overwhelming majority (almost 80%) of business and consumer associations and national authorities considered the DMFSD to meet current challenges and needs to some extent or completely. Consumer associations had more difficulties in expressing an opinion and were also the least positive about the relevance of the Directive (although the majority was positive).

[150] G20/OECD (2018). Policy Guidance Financial Consumer Protection Approaches in the Digital Age. Available at: https://www.oecd.org/finance/G20-OECD-Policy-Guidance-Financial-Consumer-Protection-Digital-Age-2018.pdf

[151] European Parliament (2014). Consumer Protection Aspects of Financial Services. Internal Market and Consumer Protection.

[152] The extent of cross-border competition depends on the product offered, e.g. there is very little cross-border competition for mortgage loans but this competition for payment services has increased significantly.

A detailed analysis of the initial and current relevance of each objective of the DMFSD (i.e. consumer protection and consolidation of the single market) is presented below.

4.1.1.1 Objective 1: Consumer protection and trust

With respect to increasing consumer protection and generating trust in the distance selling of financial services, the Directive had three sub-objectives (see intervention logic in Section 2.2):

- To ensure better consumer pre-contractual information (Articles 3, 4 and 5);
- To ensure the effective right of withdrawal (Article 6);
- To protect consumers from unsolicited communications and services (Articles 9 and 10).

The baseline assessment reviews consumer needs at the time the DMFSD was introduced (see Section 2.3) and shows that a significant share of consumers (41%)[153] disagreed with the statement that their rights as consumers were adequately protected in relation to financial services.[154] At the time the DMFSD was implemented, the assessment found that consumers had a low level of financial literacy[155], as well as a low level of trust in using distance means of conducting financial transactions[156]. The susceptibility of consumers to malpractice and exploitation may be heightened when they are faced with complex and long-term financial products and disclosures of information that are incomplete or excessive[157]. Consumer protection was therefore at increased risk in the face of digitalisation, which could promote the introduction of innovative products and providers that may not be covered by existing regulations.

Compared to the situation before the introduction of the Directive, the provision of distance retail financial services has undergone significant changes, most notably:

- A shift in the means of distance communication available to/used by consumers to search/receive information on financial services and conclude contracts. Findings from the OPC and consumer survey suggest that the internet is now the primary distance means of communication for consumers of all financial services[158].
- Providers use a variety of tools to contact users, provide information and advice 24/7, with or without human interaction, such as websites, smartphone applications, automated chatbots[159] and online tools that allow video, chat and voice calls with the provider.

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[153] Eurobarometer 205 (2003).

[154] This refers to all financial products independently of the means of communication used. Nevertheless, as there was no specific legislation applicable to face-to-face only or distance means only, all consumers were covered by the same legislation. We can assume that this provides an indication of the percentage of consumers of financial services at distance that considered that their rights as consumers were not adequately protected in relation to financial services.

[155] Altman, M. (2013). What behavioural economics has to say about financial literacy. *Applied finance letters*, *2*(1), pp. 12-17.

[156] Eurobarometer 205 (2003) found that consumer trust in using distance means for banking transactions (e.g. phone or internet) was about 20%.

[157] Lumpkin, S. (2010). Consumer Protection and Financial Innovation: A few Basic Propositions. *OECD Journal: Financial Market Trends*.

[158] According to the surveys, between 63-75% of consumers reported that they used their desktop, laptop, tablet or mobile phone to search/receive information on financial services. By 2010, there was already a strong increase in the use of the internet for financial services and other activities. The findings from the OPC and consumer survey suggest that communications via means that do not depend on the internet (such as mail, post and telephone) remain important today. For example, about 12-28% of respondents to the two surveys used the telephone to search/receive information on financial services (however, other communication means such as fax may now be redundant). These means of communication were available to consumers when the DMFSD was introduced in 2002.

[159] A chatbot is a *"computer program that simulates human conversation through voice commands or text chats or both*." see https://www.investopedia.com/terms/c/chatbot.asp.

- Introduction of new and more complex financial services/products[160], some of which are available (mostly) exclusively online (e.g. virtual currencies).
- Increased relevance of consolidators and comparison websites[161].
- Providers' use of 'Big Data' and analytics to personalise marketing, advice and services/products based on user data and consumer behaviour predictions[162].
- Increased speed with which consumers can sign a contract and purchase a financial service[163,164,165].
- Increased accessibility of financial services/products to a wider share of consumers[166].
- New digital marketing tools/methods, such as social media sites, paid search tools, mobile applications, influencer marketing[167,168].
- Introduction of EU horizontal and product-specific legislation (see details on how this impacted the relevance of the DMFSD in Section 4.1.2).

Nevertheless, the financial services market was - and still is - characterised by features that limit the ability of the market to work to the maximum benefit of consumers, including[169]:

- High market power of the financial institutions over consumers, which means that consumers tend to have limited bargain power.[170]
- Low level of consumer experience in purchasing financial services due to infrequent purchases (especially mortgages and pension funds), which limits the possibilities for consumers to improve their decision-making process based on previous experiences.
- Financial services/products tend to be very complex and therefore difficult to understand.
- Gathering necessary information about services can be costly (time and financial costs), which can result in consumers over-reliance on information provided by others or not carrying out the necessary due diligence.
- Financial services/products usually require the weighing of future risks and substantial obligations (as they often involve large sums of money and have a relatively long duration), meaning that consumers face difficulties in assessing

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[160] Lumpkin, S. (2010). Consumer Protection and Financial Innovation. *OECD Journal: Financial market trends*, 2010(1), pp. 117-139.
[161] Lumpkin, S. (2010). Consumer Protection and Financial Innovation. *OECD Journal: Financial market trends*, 2010(1), pp. 117-139. Also mentioned by consumer associations and business association in their position papers. See Annex 1 - case study 2 for further details.
[162] European Commission Financial Services User Group (2016). Assessment of current and future impact of Big Data on Financial Services. Available at: https://ec.europa.eu/info/sites/info/files/file_import/1606-big-data-on-financial-services_en_0.pdf. Also referred by consumers associations as a key development (OP and interviews)
[163] Lumpkin, S. (2010). Consumer Protection and Financial Innovation. *OECD Journal: Financial market trends*, 2010(1), pp. 117-139.
[164] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[165] This aspect was highlighted by the EBA position paper on DFMSD as well as by a few consumer associations and business associations.
[166] Lumpkin, S. (2010). Consumer Protection and Financial Innovation. *OECD Journal: Financial market trends*, 2010(1), pp. 117-139.
[167] Leeflang, P.S., Verhoef, P.C., Dahlström, P. and Freundt, T. (2014). Challenges and solutions for marketing in a digital era. *European Management Journal*, *32*(1), pp. 1-12.
[168] Shirisha, M. (2018). Digital Marketing Importance in the New Era. *Marketing*.
[169] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.
[170] Due to several factors, some of which already mentioned (e.g., asymmetry of information), the financial service sector does not operate in perfect competition. Consequently, consumers have lower power to influence prices and conditions in a market that provides services and products that consumer need in their daily lives. See European Consumer Consultative Group, Opinion on consumers and vulnerability, Adopted on 7th February 2013 by ECCG Plenary.

their true costs and possible problems may only arise after the signature of the contract.

These market features indicate that financial providers are often in a more advantageous position than consumers, given the information asymmetries.

At the same time, relatively recent research[171] on consumer behavioural biases[172] shows that providing consumers with as much information as possible about the characteristics of services/products does not necessarily improve their decisions and can actually lead to poorer decisions due to behavioural biases (e.g. consumers tend not to read long or very technical documentation). This has been documented in the context of financial services[173,174] in general and also in the case of the distance sale/purchase of financial services[175]. For example, a 2012 Eurobarometer survey on retail financial services showed that 52% of consumers tend to opt for the first product they see when obtaining a current bank account or a credit card[176].

Another relevant behavioural bias (framing bias) is related to the way consumers' ability to understand and compare the information is influenced by how the information is presented (e.g. style, structure and context) and how well it is adapted to the communication device[177].

In addition, consumers have difficulties understanding complex financial products and conditions. For instance, the 2010 Flash Eurobarometer 282 showed that more than 50% of the EU citizens surveyed would like to be offered simpler financial services and products, particularly pensions (71% agreed or strongly agreed), followed by savings accounts (63%), other investment products and mortgages (62% apiece). Current accounts, credit cards and debit cards were seen as slightly easier to understand, with 53%, 51% and 48%, respectively, nevertheless feeling that they need to be simplified[178].

Simultaneously, some providers adopt problematic or unfair practices at advertising and pre-contractual stages that to some extent exploit market failures and consumer behavioural biases[179]. A 2014 European Parliament[180] study concluded that in a number of Member States consumers are provided with insufficient information on life insurance and that information provision and the suitability of investment products is a problem as sales staff do not provide detail on risks, duration of investments, key terms within agreements, etc. Instances of pressure selling, and other practices were also observed. The European Commission's 'Behavioural study on the digitalisation of the marketing and distance selling of retail financial services' identified several problematic practices (see Table 6)[181] that are taking place recently in spite of the existing EU horizontal and product-specific legislation currently in place .

[171] Consumer and industry representatives highlighted these findings when asked to assess the relevance of the DMFSD.
[172] Sometimes these biases are exploited by the industry to mislead consumers.
[173] Chater, N., Huck, S. and Inderst, R. (2010). Consumer decision-making in retail investment services: A behavioural economics perspective. Report to the European Commission/SANCO.
[174] Lefevre, A. and M. Chapman (2017). Behavioural economics and financial consumer protection. OECD Working Papers on Finance, Insurance and Private Pensions, No. 42. Paris: OECD Publishing. Available at: http://dx.doi.org/10.1787/0c8685b2-en
[175] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[176] Eurobarometer (2012). Special Eurobarometer 373.
[177] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[178] Eurobarometer 282 (2009). Cross-border sales and consumer protection, p. 53.
[179] Lefevre, A. and M. Chapman (2017). Behavioural economics and financial consumer protection. OECD Working Papers on Finance, Insurance and Private Pensions, No. 42. Paris: OECD Publishing.
[180] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.
[181] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.

Table 6. Examples of industry misleading and unfair practices at advertising and pre-contractual stages

Stage	Practice	Description
Way in which information is provided		
Advertisement Pre-contractual	Benefits emphasised while costs are hidden or given lower prominence	Product features and pricing structures are not transparent, emphasising benefits while hiding costs.
Advertisement Pre-contractual	Key information missing or difficult to find	Key information about the product is not available or is difficult to find (e.g., findings from the mystery shopping carried out in the context of this evaluation (see Annex 5) shows that 13% of the mystery shoppers found it "quite difficult" or "very difficult" to find information about the products)
Pre-contractual	Information complex and difficult to understand	Information is presented in a manner that is complex and difficult to understand, for example by using jargon or complex terms (e.g., the findings of the mystery shopping carried out in the context of this evaluation (see Annex 5) show that 14% of the mystery shoppers found that the available information about products was "quite difficult" or "very difficult" to understand)
Pre-contractual	Information layered and located in places that can be overlooked	Placement of important information in sections that can be easily overlooked by consumers
Pre-contractual	Information format not adapted to the medium used	The information provided on the mobile screen is not adapted to the size of the screen (e.g., evidence from the mystery shopping carried out in the context of this evaluation (see Annex 5) shows that 12% of the mystery shoppers using a smartphone app found the information difficult to view and read[182])
Features which may accelerate consumer's purchase decision		
Advertisement Pre-contractual	Speedy or 'one-click' products (a fast purchasing process)	Enabling consumers to obtain products fast (e.g. in under 15 minutes), for example 'one-click' credit
Advertisement Pre-contractual	Promotional offers and consumer incentives	Emphasis on the availability of promotional offers or consumer incentives, sometimes of a time-limited nature
Design of the offers		
Pre-contractual	Pre-ticked boxes	Recommended add-on products or services are pre-ticked when applying for a product
Pre-contractual	Product bundling	Different products are presented in a single offer, for instance, a bank account offered with travel insurance
Consumer targeting and personalisation		
Advertisement Pre-contractual	Targeting and personalisation	Content targeted to specific audiences or personalised based on individual characteristics

[182] The sample size was 25.

Pre-contractual	Price discrimination	Charge consumers differently depending on their characteristics, in a way that may not be clear from the pricing structure
Tools made available to consumers to assist their decision-making process		
Advertisement	Positive consumer reviews	Display of positive consumer reviews only, which create the impression of a highly desirable product
Pre-contractual	Product-tailored contact sections	Lack of product-specific contact information sections

Source: LE Europe (2019)

Most of these developments, coupled with the intrinsic characteristics of the market, the low financial literacy level of consumers[183,184,185], consumer behaviour biases[186] and the unfair practices of some financial providers, can significantly influence the ability of consumers to make well-informed decisions, reduce their trust in the market and lead to consumer detriment.

Since 2010, the perceived performance of the market has increased, with consumers in 2018 reporting a higher ability to compare financial services/products, higher trust levels in suppliers or providers, a higher degree of satisfaction with the purchased services/products when compared to their expectations, and a lower level of problems. Nevertheless, the market performance of most of the financial services analysed[187] is below the average of the 40 markets covered by the Consumer Markets Scoreboard 2018[188]. Of those 40 markets, investment products, private personal pensions and securities had the second worst performance, with mortgages coming in third position.

As highlighted by the financial crisis of 2007/2008, the borderless interconnection of financial systems means that irresponsible practices and poor consumer protection can have negative consequences worldwide[189]. Addressing these aspects is a supranational matter that requires consumer financial regulation[190], thus the DMFSD objective to increase protection of consumers of financial services sold through distance means of communication remains relevant. Almost 80% of the stakeholders consulted in the context of this study agreed (fully or to some extent) that the DMFSD meets the current challenges and needs, with only 11% of the business associations, 15% of the consumer associations and 8% of the national authorities disagreeing.

The initial and current relevance of each key provision of the DMFSD are discussed in more detail below.[191]

Pre-contractual information

Asymmetry of information (between consumers and financial providers) hinders the consumer decision-making process and can lead to poor choices and welfare losses or

[183] London Economics (2013).
[184] Luzak J. and Junuzović M. (2019).
[185] While a few EU countries have high rates of financial literacy (such as Denmark and Sweden, with 70% apiece), other EU countries perform below the global average, such as Romania (22%) and Portugal (26%). In Batsaikhan, U. and Demertzis, M. (2018). Financial literacy and inclusive growth in the European Union. Bruegel Policy Contribution Issue (08).
[186] As many studies have found, including LE Europe (2019).
[187] Exceptions were home and vehicle insurance.
[188] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.
[189] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.
[190] Campbell, J.Y., Jackson, H.E., Madrian, B.C. and Tufano, P. (2011). Consumer financial protection. *Journal of Economic Perspectives*, *25*(1), pp. 91-114.
[191] In addition to the key provision of the DMFSD, it is important to refer that the existence of out-of-court redress mechanisms was considered important by 83% of the consumers that responded to the OPC.

consumer detriment[192,193,194]. One of the main goals of consumer protection policy, therefore, is to remedy information issues.

At the time the Directive was introduced, evidence suggested that a significant share of consumers considered the information they received from financial institutions insufficient[195], unclear and/or incomprehensible[196]. This is in line with study findings at the time[197], which noted that the financial services sector is prone to information asymmetry because of[198]:

- Difficulties for consumers in finding information on a service/product before purchase;
- Difficulties for consumers in understanding the technical specifications of the services/products due to their low level of financial literacy and the complexity of certain financial services/products[199];
- Uncertainty about how the financial service/product will perform (i.e. risk).

The use of distance means of communication and the expected increasing digitalisation of the financial sector were believed to (potentially) exacerbate these information asymmetry problems and malpractice related to information disclosure:

- They foster the development of new complex financial services/products that initially do not have easily accessible references and that may not be covered by existing legislation;
- Consumers might not receive information in a medium that allows for easy safeguarding of information on all of the agreed characteristics of the services/product, sales conditions, rights and duties of the parties, etc.

Through the provisions on pre-contractual information (Articles 3, 4 and 5), the DMFSD addresses these needs[200,201] to some extent by harmonising the information that consumers should receive prior to the conclusion of a distance contract (concerning the supplier, the characteristics of the financial service/product, the contract and consumer rights and redress), including how and when the information should be provided.

By promoting the disclosure and transparency of key information before the contract is signed, the DMFSD supports consumers in assessing the quality and risks of financial services/products and comparing services/products from different providers. This contributes to more informed and better decisions[202] and to increased consumer trust,

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[192] Micklitz, H.W., Reisch, L.A. and Hagen, K. (2011). An introduction to the special issue on 'behavioural economics, consumer policy, and consumer law'. *Journal of Consumer Policy*, 34(3), pp. 271-276.
[193] Cartwright, P. (Ed.) (1999). *Consumer protection in financial* services *(Vol. 9).* Kluwer Law International BV.
[194] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.
[195] Eurobarometer 205 (2003) found that around 50% of consumers considered it fairly difficult or very difficult to know beforehand how much borrowing money was going to cost or how well they were covered by insurance policies.
[196] Eurobarometer 205 (2003) found that it was fairly difficult or very difficult for 60% of the respondents to understand information and risks involved with their mortgages, for more than 50% to compare information about different banks, mortgages and bank account charges and features. Almost 60% of the respondents disagreed with the statement 'the information I get from financial institutions is clear and understandable'.
[197] Cartwright, P. (Ed.) (1999). *Consumer protection in financial services (Vol. 9).* Kluwer Law International BV.
[198] Lumpkin, S. (2010). Consumer Protection and Financial Innovation. *OECD Journal: Financial market trends*, 2010(1), pp. 117-139.
[199] Arianti, B.F. (2018). The Influence Of Financial Literacy, Financial Behaviour And Income On Investment Decisions. *Eaj (Economics And Accounting Journal)*, *1*(1), pp. 1-10.
[200] As disclosure and transparency alone may not be sufficient to protect consumers when products are complex, and the financial literacy of a consumer is low. See, for example, Lumpkin, S. (2010). Consumer Protection and Financial Innovation: A few Basic Propositions. *OECD Journal: Financial Market Trends*.
[201] Micklitz, H.W., Reisch, L.A. and Hagen, K. (2011). An introduction to the special issue on 'behavioural economics, consumer policy, and consumer law'. *Journal of Consumer Policy*, 34(3), pp. 271-276.
[202] European Parliament (2014). Consumer Protection Aspects of Financial Services. Internal Market and Consumer Protection.

as they feel more confident in their choices and are more aware of their rights. Financial providers also benefit, as more confident consumers tend to be more willing to purchase financial services.

The national legal analysis found that only 11 Member States[203] had national legislation that partially covered the disclosure of pre-contractual information for financial services sold through a distance means of communication, which suggests that the DMFSD addressed a gap in protection at the national level. It is estimated that the yearly potential outreach of this provision was between 15 and 27 million consumers.[204]

Currently, the DMFSD sub-objective of ensuring that consumers receive better pre-contractual information is still generally relevant. This was confirmed by the majority of the stakeholders from all groups consulted considered the requirement to provide consumers with information about the service, its conditions and the supplier as totally or somewhat relevant/important[205]. National authorities are the ones expressing the most positive opinion regarding the relevance of the provision of pre-contractual information about both the product (94%) and the provider (100%), followed by consumers which overwhelmingly (more than 85%) consider the rights to having information about the main characteristics about the service and about the provider as "very important". While all consumer associations considered the requirement to provide information about the provider relevant, one third of the providers and business associations considered it somewhat or totally irrelevant. Regarding the information about the characteristics of the service, almost 40% of the consulted consumer associations and 40% of the industry stakeholders consider it somewhat or totally irrelevant.

However, the way in which this objective is concretely implemented (through Articles 3, 4 and 5 DMFSD) seems to be aligned to consumer needs only to some extent. This is confirmed by the opinion of some stakeholders from all groups[206], in light of the impact of recent developments, current common providers' practices and knowledge of consumer behaviour.

Consumers[207] find it 'somewhat important' or 'very important' to receive information on the following:

- Total price to be paid, including all possible fees and charges;
- Conditions for terminating the contract;
- Potential risks associated with the service;
- Existence of additional taxes or costs that the consumer has to pay to someone other than the supplier;
- Description of the service provided;
- Existence of the right of withdrawal of the contract and its conditions;
- Minimum duration of the contract;

[203] BE, DK, EE, EL, ES, LV, NL, PT, SE, SK, UK.

[204] These figures were estimated by multiplying a) the population aged between 16 and 74 of the countries that did not have or had only partial legislation covering pre-contractual information before the implementation of the DMFSD (i.e. 251 million), by the percentage of people that had purchased at least one financial service at a distance in the last 12 months in 2004 (estimated to be between 5.7% and 10.7%). As explained in Section 3.2, due to lack of available data, this had to be estimated based on the available data for online sales and distribution of sales per distance means.

[205] Of the stakeholder groups, consumers were the most positive about the importance of receiving information about the service and its conditions and the supplier (96% found it somewhat or very important). They were the least positive about the relevance of pre-contractual provision of information. The element of Article 3 considered least relevant by all stakeholders was the information requirement related to contracts negotiated over the phone.

[206] Data from interviews, surveys and position papers. No stakeholder mentioned that the DMFSD is completely aligned with the needs of consumers and providers and overall there are no evidence of significant disagreements between the various groups of stakeholders regarding this point. However, only some stakeholders (from all groups) indicated the reasons behind their position.

[207] See consumer survey and OPC.

- Information about the applicable law;
- Information about the language of the contract and the terms under which the service is provided;
- Potential gains/revenues stemming from the service;
- How long the offer is valid;
- Options and procedures for small compensation claims;
- Information on the availability of guarantee funds or other compensation agreements.

While the majority of stakeholders from all groups[208] did not suggest changes to the type of pre-contractual information that should be given to consumers by financial service providers. Two industry stakeholders considered that the information should be simplified for all situations. A few providers and business associations mentioned that the provision might be too demanding in respect of information provided for contracts negotiated over the phone, with more that 40% of consumer associations and industry stakeholders considering this requirement "somewhat or totally irrelevant". An analysis of the outcome of the consultations points out to the following reasons behind these results:

- decline of contracts done via phone calls;
- difficulty in providing the required information in a way that clients fully "retain and/or understand it" during a phone call (especially because the type of consumers that mostly use this means of communication are perceived to be from more vulnerable groups);
- perceived low effectiveness of these requirements due to the fact that providers do not always comply with these requirements, difficulties in monitoring compliance with these requirements and also because of problems experienced by consumers in fully understanding the information they receive;
- existence of other EU Legislation which contain a number of more targeted requirements.

In the same vein, a few industry stakeholders mentioned that the information requirements for smartphone apps and comparison websites should also be less stringent as for the case of contracts carried out over the phone. One consumer association mentioned that for services/products for which the right of withdrawal does not apply, the information requirements should be more stringent.

At the same time, the majority of the consumers consulted[209] considered it very important that the information is presented prominently and immediately, in a format that enables its comparison with other products, and in a way that is adapted to the communication channel.

These views are in line with the opinions expressed by consumer and business associations and EU and national authorities[210], and with the findings from behavioural studies that '*emphasise the need to consider not just whether information is disclosed but how it is disclosed, in what format, and in what context'*[211], since these features influence the way consumers absorb and interpret information (due to behavioural biases). This is becoming more prominent as some current practices adopted by suppliers exploit these biases, for example, by (1) using too technical/complex language when providing information, (2) emphasising benefits while giving lower prominence to costs or less favourable aspects of the service/products, and (3) making key information

[208] Data obtained in the context of the stakeholder consultation from interviews, surveys, OPC and position papers.
209 See consumer survey and OPC.
210 See for example Opinion of the European Banking Authority on disclosure to consumers of banking services through digital means under Directive 2002/65/EC, 2019.
211 Chater, N., Huck, S. and Inderst, R. (2010). Consumer decision-making in retail investment services: A behavioural economics perspective. Report to the European Commission/SANCO.

difficult to find by layering it or locating it in places that can be overlooked. While these practices do not go strictly against the DMFSD provision on pre-contractual information, they can hinder its relevance and effectiveness. Current research (as well as some consumer associations, national authorities, consumers and mystery shoppers) proposes remedies to deal with the behavioural biases and improve the ability of consumers to read and understand key information (e.g. simplified descriptions, avoid small print, use of icons, use of traffic light label for financial risk[212], use of tables to present the information[213], minimise the use of hyperlinks[214], use of pop-ups with warning messages[215], and consequently promote better decisions.

Another limitation of information disclosure as a protection tool has to do with consumers being disinclined or unable to read lengthy documentation (possibly more so when using some digital devices)[216]. This has been shown by various studies in the context of financial services[217,218] and pointed out by stakeholders from both industry and consumer associations during the consultations done in the scope of this evaluation. There is a need for a balanced approach to the amount of information to be disclosed coupled with practices that encourage consumers to read the information (e.g. to adopt a mandatory scrolling-down mechanism for pre-contractual and contractual information, use of pop-ups or icons).

The need to receive information in a way that enables comparison between services/products does not seem to be fully addressed by the DMFSD (as it is the case in some product-specific legislation[219]). This is becoming more relevant with the proliferation of consolidators and comparison websites for financial services. In fact, this aspect is considered important not only by consumers (including mystery shoppers) but by other consumer associations and EU and national authorities as well, and it is listed by LE Europe (2019) as one of the four key principles to improve consumer decision-making in distance selling of retail financial services. However, legal analysis of the DMFSD recital[220], scope and the definitions of "distance contract" and of "supplier" (Article 2) concludes that currently the Directive might not apply to all comparison websites but only to those that have a commercial activity and participates in the process of selling financial services/products to the consumers (therefore non-commercial websites and websites that only provide links to the websites of providers seem not to be covered by the DMFSD).

Regarding comparability of information, a few consumer associations and a few consumers mentioned that having a standardised form (as imposed by some products-specific legislation) could improve the comparability of services and help consumers

[212] *Ben-Shahar* (2009). European Review of Contract Law, 1; See also *Becher* (2009). A 'Fair Contracts' Approval Mechanism: Reconciling Consumer Contracts and Conventional Contract Law, 42. *University of Michigan Journal of Law Reform*, p. 747.
[213] See LE study and EBA Opinion, 2019. This has also been mentioned by about 5% of the mystery shoppers when asked about their suggestions to improve information disclosure.
[214] See LE study and EBA Opinion, 2019
215 Mitts, J. (2014). How Much Mandatory Disclosure is Effective? Available at SSRN 2404526.
[216] G20/OECD (2018). Policy Guidance Financial Consumer Protection Approaches in the Digital Age. Available at: https://www.oecd.org/finance/G20-OECD-Policy-Guidance-Financial-Consumer-Protection-Digital-Age-2018.pdf
[217] Lefevre, A. and Chapman, M. (2017). Behavioural economics and financial consumer protection. OECD Working Papers on Finance, Insurance and Private Pensions, No. 42. Paris: OECD Publishing.
[218] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[219] One business association indicated that having the same standardised form for all financial services would be difficult.
[220] Recital (19) of DMFSD states that: "The supplier is the person providing services at a distance. This Directive should however also apply when one of the marketing stages involves an intermediary. Having regard to the nature and degree of that involvement, the pertinent provisions of this Directive should apply to such an intermediary, irrespective of his or her legal status."

make more better choices. The EBA[221] indicated that the practicality of such form should be taken into account[222].

Article 3(2) of the DMFSD appears to properly address the need to adapt the information to the device used by requiring that '*The information (…) shall be provided in a clear and comprehensible manner in any way appropriate to the means of distance communication used(…)'*. Nevertheless, a few consumers associations, EBA[223] and national authorities consider that further guidance on this should be provided. Similarly, LE Europe (2019) recommends that guidelines on how this should be implemented in practice should be developed and communicated to financial providers.

Similarly, stakeholders agree that the requirement that pre-contractual information is provided '*In good time before the consumer is bound by any distance contract or offer'* (Article 3(1)) is very relevant. This is also highlighted by the findings of LE Europe (2019). The EBA[224], some national authorities and one business association indicated that it could be beneficial to define the timeline more concretely. Consumers reported that the information should ideally be provided by default, for example on the provider's website and at least 24 hours before signature of the contract.

One point raised by some stakeholders from all groups relates to the relevance of the concept of 'durable medium' in a time when the most commonly used means of distance communication are websites and mobile apps. Case-law seems to suggest that while some websites can be considered a 'durable medium', others cannot (see Section 3.1).

Finally, the relevance of the provisions on pre-contractual information seems to have been significantly reduced by the introduction of product-specific legislation. This is because this legislation tends to be better adjusted to the service/product it regulates (see EQ2 - Section 4.1.2). Nevertheless, the provision of pre-contractual information through the DMFSD remains relevant, as it applies to: (1) all current and future financial services that might not be regulated by product-specific legislation, and (2) services for which there is product-specific legislation that does not regulate the provision of pre-contractual information (as extensively as the DMFSD – see Coherence section). This is particularly important given that new developments in the financial service sector happen at a fast pace but introducing product-specific legislation takes a significant amount of time.

Right of withdrawal

At the time the DMFSD entered into force, a significant share of consumers did not consider the information received from financial institutions sufficient[225], clear and/or understandable[226]. The levels of consumer confidence in the EU-15 in purchasing financial services using the internet was very low at that time[227].

The poor level of information and lack of consumer confidence indicated that consumers of financial services using distance means of communication were in a '*structurally*

[221] EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[222] One business association referred that having one form for all types of financial products might not be feasible.
[223] EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[224] EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[225] Eurobarometer 205 (2003) found that around 50% of consumers considered it fairly difficult or very difficult to know beforehand how much borrowing money was going to cost or how well they were covered by insurance policies.
[226] Eurobarometer 205 (2003) found that it was fairly or very difficult for 60% of the respondents to understand information and risks involved about their mortgages, for more than 50% to compare information about different banks, mortgages and bank account charges and features. Almost 60% of respondents disagreed with the statement, 'the information I get from financial institutions is clear and understandable'.
[227] European Opinion Research Group (2004). Issues relating to Business and Consumer E-commerce: Executive Summary. Brussels: European Commission. Financial products/ services were the third type of product/service with the lowest level of confidence relating to purchasing over the internet (16%).

disadvantageous position'[228] at the time of the conclusion of contracts, not being able to take an informed and free decision[229,230]. There was therefore a need to mitigate the following risks:

- Consumers might not behave rationally when concluding the contract because they were, for example, overwhelmed, overly optimistic or put under pressure to sign the contract (this is particularly relevant for contracts concluded over the phone)[231];
- Information asymmetries at the time of conclusion of the contract (this was particularly relevant when the agreement involved complex products or complex clauses – which was often the case with financial services - and the consumer might have had difficulties in absorbing all of the information received);
- Consumers refrained from concluding agreements due to their perceived weak/disadvantageous position (which can be related to mistrust of suppliers or of the means of communication used) or due to previous negative experiences[232,233].

The expected increased digitalisation of the financial services sector was considered to further increase the risks of information issues and non-rational decisions (see sub-section on pre-contractual information above). The consequent lack of personal contact between consumers and providers because of the use of online channels – with documented impact on the trust levels of consumers[234] - was seen as particularly problematic in this market segment. As financial services/products tend to be complex and involve substantial commitments (due to their duration, amount and risk[235,236], lack of trust in suppliers and in information received could significantly prevent consumers from engaging in distance contracts.

Through the provisions on the right of withdrawal (Article 6 and 7), the DMFSD aimed to mitigate the risks noted above by providing consumers with a 'cooling-off period' (of 14 days, extended to 30 days for life insurance contracts) for most of the financial services purchased through distance means of communication. This allowed consumers time to rethink and reassess the contract, as well as the opportunity to change their minds and terminate the contract without penalties for non-performance and without having to provide a reason.

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[228] 'The right of withdrawal may be defined as the right, exercisable within a limited period, to terminate the legal relationship arising from a contract, without having to give any reason for so doing and without incurring any liability for non-performance' in Tang, S.T. (2015). The statutory right of withdrawal in e-commerce (Doctoral dissertation, Université de Neuchâtel).

[229] Steennot, R. (2013). The right of withdrawal under the Consumer Rights Directive as a tool to protect consumers concluding a distance contract. *Computer Law & Security Review*, 29(2), pp. 105-119.

[230] Tscherner, E. (2014). Can behavioural research advance mandatory law, information duties, standard terms and withdrawal rights? pp. 144-155.

[231] Eidenmüller, H. (2011). Why withdrawal rights? *European Review of Contract Law*, 7(1), pp. 1-24.

[232] Eidenmüller, H. (2011). Why withdrawal rights? *European Review of Contract Law*, 7(1), pp. 1-24.

[233] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.

[234] Luzak, J.A. (2014). To withdraw or not to withdraw? Evaluation of the mandatory right of withdrawal in consumer distance selling contracts taking into account its behavioural effects on consumers. *Journal of Consumer Policy*, 37(1), pp. 91-111.

[235] Loos, M. (2009). Rights of withdrawal. Centre for the Study of European Contract Law Working Paper Series (2009/04).

[236] Muller, P., Devnani, S., Heys, R. and Suter, J. (2014). Consumer protection aspects of financial services. Brussels: European Parliament. Directorate-General for Internal Policies.

At the time the Directive was drafted, the right of withdrawal[237] was a relatively recent element of European contract law[238] that had emerged as an instrument to protect consumers[239,240] and increase their trust when signing contracts where they could be in an unfavourable position due to information issues and/or their capacity to make rational decisions when concluding the contract. The right of withdrawal complemented the pre-contractual information provisions, as it aimed to contribute to better-informed choices[241].

Allowing consumers to have a 'last exit' option was also thought to increase consumers' confidence in distance contracts and promote purchases. This therefore not only benefits consumers but also financial providers.

The national legal analysis found that only nine Member States[242] had national legislation providing (to some extent) the right of withdrawal for financial services sold through a distance means of communication, which suggests that this DMFSD provision addressed a gap in consumer protection. It is estimated that the yearly potential outreach of this provision was between 11 and 20 million consumers.[243]

At the time the DMFSD was implemented, the right of withdrawal provided in the DMFSD was in line with the need to protect consumers from hasty decisions and inappropriate contracts and to increase the demand for financial services sold through distance means of communication by boosting consumer confidence. Those needs persist today and the objective to protect consumers from rushed and ill-informed decisions by allowing them to terminate a distance contract, within a limited period of time, without having to give any reason and without incurring any penalty for non-performance, remains relevant.

As seen above, consumers are still in an unfavourable position due to information imperfections and/or their incapacity to make rational decisions at the moment of conclusion of the contract. In fact, digitalisation might partly contribute to weakening consumers' positions, as it has brought more complex financial services/products, increased the speed with which consumers can sign a contract and purchase a financial service (e.g. speedy, or 'one-click' products) and given providers the tools to better influence and shape consumer behaviour (e.g. using 'Big Data' to personalise communications and offers[244], giving prominence solely to positive reviews, or use influencer marketing).

Of the key provisions of the DMFSD, stakeholders consider the right of withdrawal the most relevant, not only because it gives consumers the right to withdraw from certain contracts but also because it provides exceptions to this right in certain situations and for certain financial services (see Article 6(2)). More than 90% of the consulted

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[237] '*The right of withdrawal may be defined as the right, exercisable within a limited period, to terminate the legal relationship arising from a contract, without having to give any reason for so doing and without incurring any liability for non-performance'* in Tang, S.T. (2015). The statutory right of withdrawal in e-commerce (Doctoral dissertation, Université de Neuchâtel).

[238] Loos, M. (2009). Rights of withdrawal. Centre for the Study of European Contract Law Working Paper Series (2009/04).

[239] Tang, S.T. (2015). The statutory right of withdrawal in e-commerce (Doctoral dissertation, Université de Neuchâtel).

[240] Loos, M. (2009). Rights of withdrawal. Centre for the Study of European Contract Law Working Paper Series (2009/04).

[241] IP/A/IMCO/ST/2006-20, Broad economic analysis of the impact of the proposed directive on consumer credit.

[242] DK, DE, EL, ES, LV, SK, UK, EE, PT.

[243] These figures were estimated by multiplying a) the population aged between 16 and 74 of the countries that did not have or had only partial legislation covering right of withdrawal before the implementation of the DMFSD (i.e. 188 million), by the percentage of people that had purchased at least one financial service at a distance in the last 12 months in 2004 (estimated to be between 5.7% and 10.7%). As explained in Section 3.2, due to lack of available data, this had to be estimated based on the available data for online sales and distribution of sales per distance means.

[244] European Commission Financial Services User Group (2016). Assessment of current and future impact of Big Data on Financial Services. Available at: https://ec.europa.eu/info/sites/info/files/file_import/1606-big-data-on-financial-services_en_0.pdf

consumers (OPC) indicated that having the right of withdrawal is important (for 75% it is very important), more than 85% of industry stakeholders relevant and 100% of the national authorities consider it relevant. Only 38% of the consumer associations considered this provision relevant, with the remainder considering it somewhat irrelevant mostly because consumers do not make use of it. Consequently, consumer associations and some national authorities mentioned that the concrete implementation of this objective through Article 6 could be made closely aligned with consumer needs by making sure that:

- the mechanism/procedure to exercise the right of withdrawal is at least as convenient as the mechanism/procedure in place to conclude the contract[245];
- the consumer shall be provided with proof of the notice of withdrawal immediately thereafter on paper or on another durable medium;
- a model withdrawal form should be provided to consumers at the moment they sign the contract.

Some behavioural studies seem to suggest that the way in which the DMFSD implements the right of withdrawal might not be the most effective in addressing the risk of consumers being trapped in unsatisfactory contracts.[246]

This is because '*status quo bias, endowment effect, loss aversion, regret avoidance and the sunk cost fallacy could foster behaviour that makes people refrain from using their withdrawal rights effectively*'. Consumers thus minimise their cognitive dissonance by disregarding information that conflicts with decisions already taken[247,248]. Some literature therefore suggests that it would be more appropriate to implement this right by asking consumers - after the cooling-off period expires - if they want to retain the contract, instead of waiting for them to terminate the contract[249].

Some national authorities and a few consumer associations suggested that another alternative would be to give consumers an obligatory reflection period before signing the contract. This could be an important instrument to protect consumers in respect of those financial services/products that are not subject to the right of withdrawal and that are often risky and complex.

The introduction of product-specific legislation that regulates the right of withdrawal had an impact on the relevance of this DMFSD provision. Nevertheless, like the pre-contractual information provision, this provision remains relevant as it applies to all current and future financial services, including those that are not covered by product-specific legislation and those covered by product-specific legislation that does not regulate this aspect (which is estimated to be around 50%[250] of the current sales of financial services at the distance considering the data collected from the consumer survey and the analysis on the gaps currently covered by the DMFSD described in EQ2 – section 4.1.2)

Unsolicited communications and services

The low levels of financial and digital literacy at the time the DMFSD was drafted meant that consumers of financial services through distance means of communication were significantly exposed to abusive practices of financial providers. At the time the DMFSD

[245] See EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[246] This was also mentioned by a consumer association.
[247] Tscherner, E. (2014). Can behavioural research advance mandatory law, information duties, standard terms and withdrawal rights? pp.144-155.
[248] Azzopardi, A. (2012). The Contribution of EU Directives to the Objective of Consumer Protection.
249 Tscherner, E. (2014). Can behavioral research advance mandatory law, information duties, standard terms and withdrawal rights? pp.144-155.
250 Product specific legislation does not provide the right of withdrawal for accounts, insurances and pensions. According to the consumer survey these products represent about 55% of the market of financial services sold at distance.

was introduced, this was not considered satisfactorily covered by either European or national legislation[251].

The DMFSD aimed to prevent financial providers exploiting the low levels of financial and digital literacy of consumers by protecting them from unsolicited services and communications.

The ban on unsolicited services (Article 9) protects consumers from contractual obligations without their explicit consent by prohibiting providers from supplying services/products without prior request from the consumer and by ensuring that consumers are exempt from any obligation related to services to which they did not explicitly agree[252]. It is estimated that the yearly potential outreach of this provision was between 7 and 14 million consumers.[253]

The ban on unsolicited communications (Article 10) promoted consumers' right to privacy and limited their exposure to misleading or deceptive information. This was in line with Article 7 of the Charter of Fundamental Rights of the European Union, which provides for the right to privacy and confidentiality of communications, and with Article 8 of the European Convention on Human Rights, which grants the right to privacy and confidentiality of correspondence.

At the time the Directive was drafted, a significant share of consumers considered the marketing techniques of financial institutions to be aggressive[254].The expected increase in digitalisation had a significant impact on the number and consequences of unsolicited communications. In fact, spam (unsolicited communications via the internet) was considered to represent a growing problem for consumers, as it often included misleading or false information, potentially leading to monetary and psychological costs[255] and purchases of services/products under false assumptions. In 2001, spam represented about 7% of global email traffic, growing to 51% by 2003. About half of finance-related spam included false information in the 'from' or 'subject' lines[256].

It is estimated that the yearly potential outreach of this provision was between 9-17 million consumers.[257]

The objective to prevent consumers receiving unsolicited communications and services is still relevant. This is confirmed by more than 90% of the consumers consulted[258], who indicated that they only want to be contacted by providers after giving their prior consent. Additionally, industry stakeholders (more than 70%) and national authorities

251 The national legal analysis found that only 10 Member States had national legislation that covered (to some extent) the ban on unsolicited services (AT, BE, DK, ES, FI, LV, PT, SE, SK, UK, EE) and 11 Member States addressed the issue of unsolicited communications (AT, BE, DK, ES, FI, LV, NL, PT, SE, SK, UK) for financial services sold through distance means of communication.

252 No data are available on the prevalence of this issue.

253 These figures were estimated by multiplying a) the population aged between 16 and 74 of the countries that did not have or had only partial legislation covering unsolicited services and communications before the implementation of the DMFSD (i.e. 130 million), by the percentage of people that had purchased at least one financial service at a distance in the last 12 months in 2004 (estimated to be between 5.7% and 10.7%). As explained in Section 3.2, due to lack of available data, this had to be estimated based on the available data for online sales and distribution of sales per distance means.

254 Eurobarometer 205 (2003). 57% of respondents agreed that 'the marketing techniques of financial institutions are aggressive', 21% disagreed and 21% did not know or did not answer.

255 Li, X. (2006). E-marketing, Unsolicited Commercial E-mail, and Legal Solutions. *Webology*, 3(1).

256 Li, X. (2006). E-marketing, Unsolicited Commercial E-mail, and Legal Solutions. *Webology*, 3(1), p. 7, footnote 6.

257 These figures were estimated by multiplying a) the population aged between 16 and 74of the countries that did not have or had only partial legislation covering unsolicited services and communications before the implementation of the DMFSD (i.e. 159 million), by the percentage of people that had purchased at least one financial service at a distance in the last 12 months in 2004 (estimated to be between 5.7% and 10.7%). As explained in Section 3.2, due to lack of available data, this had to be estimated based on the available data for online sales and distribution of sales per distance means.

258 See consumer survey and OPC.

(more than 85%) consider these provisions relevant. The majority of consumer associations (62.5%), however, consider them somewhat irrelevant (the remainder indicated that they are very relevant, thou).

Digitalisation has brought new challenges in this context. For example, providers now have tools that allow them to add services or obtain consumer consent by default (e.g. use of pre-ticked boxes), use chatbots or video applications to contact consumers directly, and use new digital marketing channels such as social media sites. Some consumer associations and national authorities reported their concern with the difficulty of assessing whether consumers are really consciously giving their consent.

However, as pointed out by some stakeholders (consumer, industry and national authorities' representatives) and shown by the analysis of the interplay of these provisions and other EU legislation, Article 10 (on the ban of unsolicited communications) no longer seems relevant, as it is covered extensively by other EU horizontal legislation (which applies to all current and future financial services, see EQ2 – Section 4.1.2). Furthermore, Article 10 is not technology-neutral, as it defines different rules depending on the type of communication channels, which makes some of the references obsolete (e.g. fax machines) and leads to inconsistencies, as the rules for 'automated calling systems without human intervention' are different from the rules for other means of communication, which include chatbots and pop-ups[259].

4.1.1.2 Objective 2: Consolidate single market

The cross-border selling of financial services using a distance means of communication was very limited at the time the Directive was introduced. The new distribution channel – the internet - was viewed as a potential means to overcome some supply-side barriers and reduce the cost for businesses to enter another EU market[260]. However, other barriers to cross-border sales (from both the demand and supply side) remained. The DMFSD aimed to remove some of those barriers and consolidate the single market by ensuring that: (1) to ensure that barriers to cross-border sales and purchases are reduced or removed, and (2) to ensure fair competition in the market by creating a level playing field, with a set of minimum standards applicable to all providers, financial services/products and distance sales channels.

Around the time of the introduction of the DMFSD, consumers indicated a variety of reasons for not buying financial services supplied in other EU Member States (see Section 2.3). Through its key provisions on pre-contractual information, right of withdrawal and ban on unsolicited communications and services, the DMFSD aimed to address some of the concerns about:

- Not receiving sufficient or clear information on the product or service purchased from another EU Member State;
- The possibility of fraud or crime;
- Lower levels of consumer protection in other EU Member States.

The results of the Eurobarometer 205 survey in 2003[261] suggested that harmonisation was needed in consumer protection measures in the EU, with 45% of respondents

[259] Article 10(1) that applies to telephone contact requires the consumer's prior consent while Article 10(2) that applies to all other means of communication requires either consent from consumers or their lack of manifest objection.
[260] The adoption of the E-Commerce Directive, with its country of origin clause, promised to allow the cross-border marketing of products on the basis of home state rules, although not applicable to consumer protection clauses in the contracts themselves. The DMFSD was an attempt to bring harmonised EU rules in respect of the marketing of financial services products.
[261] Eurobarometer 205 (2003). Answers to Q22: '*Each European Union member country has its own consumer protection standards. Do you think that these standards should be harmonised in the European Union, or not?*' 45% of respondents answered 'yes, totally', while 24% answered 'Yes, in part'.

reporting that national consumer protection standards should be harmonised at EU level and 24% that the standards should be partly harmonised at EU level[262].

Regarding financial providers, when it was implemented the DMFSD sought to address some of their (expected) needs[263,264]:

- Removing barriers related to the existence of different national legislation on the distance selling of financial services[265];
- Creating a level playing field and eliminating unfair competition between providers and financial products.

Before the introduction of the DMFSD, there were considerable differences between the various pieces of national legislation covering distance selling of financial services. Selling financial services in another Member State would entail knowledge of the relevant national laws and incurring financial costs to adapt procedures, contracts, etc. accordingly. Since all national legislation was different, there were no economies of scale and financial providers had to go through this procedure for each Member State in which they wanted to sell. The potential benefits of entering new markets would normally not justify the economic costs involved in adjusting to their legislation. The DMFSD harmonised the rules applicable to the distance selling of financial services at the pre-contractual phase[266], promoting the reduction of economic costs, as well as the efficiency gains[267] intended to increase cross-border market[268].

Regarding level playing field, while digitalisation was seen as a potential driver to increase cross-border sales in the EU, it was also expected to change the landscape of distance selling of financial services by fostering the entrance of new players (e.g. non-traditional providers) and new services/products. The lack of horizontal and technology-neutral legislation regulating the market meant that some of those new players and services/products were not subject to the same standards as traditional providers and services[269]. With the introduction of the DMFSD (horizontal and technology-neutral legislation), the Commission intended to limit unfair competition from non-traditional providers (and non-traditional services/products) who could leverage their exemption from existing regulations to offer services/products at a lower cost.

Since the introduction of the DMFSD, cross-border sales of financial services/products increased slightly but remain very limited (as seen in Section 3.2). Nevertheless, 58% of the consulted consumer associations agree that "the Directive has lowered entry barriers for providers wanting to operate cross-border and fostered the distance market of financial service" and only 29% of the business association disagree with the statement (of the remainder, 12% agree with the statement and 59% are neutral). As concluded in the Commission's 2015 Green Paper: '*The full benefit that may derive from*

[262] Only 11% of the respondents did not find harmonisation in this area necessary.
[263] As outlined in Section 2.3, financial providers faced other institutional and technical barriers, as well as some problems in understanding or accessing the local domestic market. Addressing these, however, was not within the scope of the DMFSD.
[264] European Financial Services Round Table (2004). Consumer Protection and Consumer Choice. A fresh approach to breaking the deadlock.
[265] European Financial Services Round Table (2004). Consumer Protection and Consumer Choice. A fresh approach to breaking the deadlock.
[266] The terms and conditions related to the contract were not harmonised by the DMFSD, and thus suppliers still had to understand and comply with the national rules on this aspect.
[267] Berger, A. (2003). The efficiency effects of a single market for financial services in Europe. *European Journal of Operational Research*, 150, pp. 466-481.
[268] The potential gain from promoting a level playing field was expected to be greater in smaller countries with less choice of financial products. See European Financial Services Round Table (2004). Consumer Protection and Consumer Choice. A fresh approach to breaking the deadlock.
[269] Centre for European Policy Studies (2017). The Future of Retail Financial Services: What Policy Mix for a Balanced Digital Transformation? Report of a CEPS-ECRI Task Force.

the single European market for retail financial services has not yet been exploited'[270]. The DMFSD can contribute in the following ways:

- Increase consumer confidence in buying cross-border by providing a harmonised approach to consumer protection across the EU;
- Help consumers in making well-informed decisions and overcoming behavioural biases that prevent them from switching provider or services (e.g. through the provisions on pre-contractual information and right of withdrawal);
- Provide a harmonised framework across the EU that reduces entrance costs and uncertainty for financial providers that wish to offer their products cross-border.

Cross-border competition can bring significant benefits[271,272,273] and so the sub-objective of the DMFSD to increase such competition remains relevant. This, however, can only be fully achieved if other barriers are also removed. Studies show that digitalisation continues to contribute to reducing/eliminating some of those barriers (e.g. lower representation and operational costs). However, some barriers from both consumer and business' side persist.

From the consumer side, the 2016 Eurobarometer 446 reflect a high share of respondents still preferring to make purchases in their own country, indicating as main barriers to purchase financial services cross-borders the lack of clear information (17%), concerns over fraud or crime (16%), concerns over whether their rights are protected (13%) and language barriers (12%). Similarly, 46% from the OPC would not consider buying financial services from another Member State indicating as main reasons uncertainty about their rights or where to turn to get redress in case of a problem (about 38%), followed by the fact that they are satisfied with the services offered in their country (28%), they prefer face-to-face contact (24%) and finally due to language barriers (15%). Of those respondents to the consumer survey that tried to purchase financial services in another Member State (about 15%), the most common experiences were that they were redirected to a website that was specific to the country where they live (29%) or they could not access the website (19%). 20% of respondents reported difficulties in understanding the available information.

Difficulties in accessing 'foreign' websites (e.g. because they are blocked or they redirect consumers to domestic or global website) or entering their residence[274,275] were also reported by consumers and a significant part of the mystery shoppers (more than 25%). This suggests that there are barriers from the supply side that prevent financial providers from offering the financial services/products cross-border. Those barriers include language barriers and lack of understanding of domestic retail financial services markets, different national relevant rules (e.g., regarding the terms and conditions related to the contracts, anti-money laundering requirements, etc), different tax regimes and lack of harmonised payment systems

[270] European Commission (2015). Green Paper on retail financial services: Better products, more choice, and greater opportunities for consumers and businesses. COM(2015) 630 final. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0630&from=EN

[271] Claessens, S. (2009). Competition in the financial sector: Overview of competition policies. *The World Bank Research Observer*, *24*(1), pp. 83-118.

[272] European Commission (2015). Green Paper on retail financial services: Better products, more choice, and greater opportunities for consumers and businesses. COM(2015) 630 final.

[273] Summary of contributions to the Green Paper on retail financial services: Better products, more choice and greater opportunities for consumers and businesses. COM(2015) 630 final. Available at: https://ec.europa.eu/finance/consultations/2015/retail-financial-services/docs/summary-of-responses_en.pdf

[274] See consumer survey and BEUC response to the Commission consultation on Green Paper on retail financial services. Available at: https://www.beuc.eu/publications/beuc-x-2016-027_fal_beuc_position_green_paper_financial_services.pdf

[275] Please note that Regulation (EU) 2018/302 banning geo-blocking does not apply to retail financial services.

The creation of a level playing field is seen as increasingly relevant by some of the industry stakeholders consulted, given the fast pace of digitalisation of the sector and the entrance of new players[276] (e.g. FinTechs), new services (e.g. P2P lending) and the use of new channels (e.g. mobile apps). The horizontal nature of the Directive and its (mostly) technology-neutral approach[277] ensure that a minimum set of rules applies to all current and future services and providers. This is considered relevant by more than 65% of the industry stakeholders consulted.

This prevents unfair competition from providers exploiting legal loopholes due to a lack of product-specific legislation or legislation that would apply to certain technologies or distribution channels. Some industry stakeholders mentioned that a broader definition of 'financial service' could prevent certain financial providers from claiming that their services are exempt from the Directive. Needs that are not addressed by the Directive

The following specific needs are considered relevant for the objective of consumer protection but are not currently (fully) covered by the DMFSD[278]:

- Simpler financial services/products;
- Information disclosed in a way that is adapted to the means of communication used;
- Information disclosed in timely manner, easily accessible and in a way that is understandable (clear and simple) and that makes sure that consumers do not miss key information;
- Good and trustworthy advice (both from a human or a bot)[279], including proper consumer support;
- Impartial and trustworthy online comparison websites and tools that provide the necessary information in a way that allows consumers to properly asses the available options and select the products that better match their needs;
- Fair cross-selling practices (i.e. bundled offering and tied or conditional offer, pre-ticked boxes)[280,281,282,283];
- Switch/terminate contracts without incurring excessive fees/penalties;
- Transparent advertisements.

Some stakeholders (from both business and consumer associations) suggested that increase share of digitalisation and the emergence of new means of distance communication such as online video calls (which blurs the difference between distance means of communication and face-to-face) means that the current needs of consumers are the same, independently of whether they use distance means of communication or face-to-face. Consequently, some suggest that the relevance of the DMFSD could be increased by extending its scope to include face-to-faces contracts (not just distance).

[276] BIS (2019). Annual Economic Report III. Big tech in finance: opportunities and risks. Available at: https://www.bis.org/publ/arpdf/ar2019e3.pdf
[277] As mentioned before, some aspects of the Directive related to the definition of durable medium and Article 10 are not considered fully technology-neutral.
[278] See EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[279] BEUC (2016). BEUC Response: Discussion Paper On Automation In Financial Advice. Available at: https://www.beuc.eu/publications/beuc-x-2016-025_gve_automation_in_financial_advice.pdf
[280] ESMA (2015). Final Report Guidelines on cross-selling practices. Available at: file:///C:/Users/51033/Downloads/2015-1861_final_report_-_guidelines_on_cross-selling_practices.pdf
[281] ESAs (2016). ESAs joint letter to the European Commission on cross-selling of financial products in the EU. Available at: https://eba.europa.eu/esas-submit-a-joint-letter-to-the-european-commission-on-cross-selling-of-financial-products-in-the-eu
[282] BEUC (2015). BEUC response to consultation of the Joint Committee of the European Supervisory Authorities on guidelines for cross-selling. Available at: https://www.beuc.eu/publications/beuc-x-2015-027_fal_response_to_consultation_of_the.pdf
[283] See consumer survey and EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.

4.1.2 EQ2. To which extent is the DMFSD relevant in light of legal developments that have occurred since its adoption?

Main findings

The evaluation finds that the relevance of the DMFSD has been decreasing in light of the introduction of product-specific legislation and horizontal legislation that have occurred since its implementation.

The provisions on pre-contractual information are today mostly relevant for savings accounts, consumer credits below EUR 200 and above EUR 75,000 and personal pensions. Additionally, the requirements related to the provision of information on the right of withdrawal are relevant for payment accounts, mortgages in Member States that opted to give this right under the DMFSD and not the MCD, and insurances covered by Article 6.

The provisions on the right of withdrawal are still relevant for payment accounts, savings accounts, consumer credits below EUR 200 and above EUR 75,000, mortgages in Member States that opted to give this right under the DMFSD and not the MCD, insurances covered by Article 6 and personal pensions.

The provisions on unsolicited communications and services are mostly non-relevant due to EDP, GDPR and UCPD.

The legal framework for financials services has undergone significant changes since the adoption of the DMFSD. Section 3.2 provides an overview of the key developments in the context of this evaluation.

The DMFSD is a horizontal piece of legislation setting rules for the provision of pre-contractual information, the right of withdrawal and unsolicited services and communications for any service of banking, credit, insurance, personal pension, investment or payment nature sold at distance. No other single piece of legislation has a similar scope and objectives, however the detailed analysis of the interplay between the DMFSD and key EU horizontal and product-specific legislation (see Sections 4.4.2 and 4.4.3), identified significant overlaps between the DMFSD and other key EU legislation.

This section analysis to what extent the DMSFD key specific objectives of ensuring consumers receive better pre-contractual information, have an effective right of withdrawal and are protected against unsolicited communications and services, are already addressed by the other EU legislation, and consequently whether they are currently fully, partially or not relevant.

Figure 13. Relevance of DMFSD key provisions

	Pre-contractual information	Right of withdrawal	Ban on unsolicited	
			Communications	Services
Banking products	Right of withdrawal on payment accounts Savings accounts	Fully relevant		
Consumer credits	Consumer credits below EUR 200 and above EUR 75,000	Consumer credits below EUR 200 and above EUR 75,000		
Mortgages	Mortgages on Member States that opted to give this right under DMFSD and not MCD	Mortgages on Member States that opted to give this right under DMFSD and not MCD		
Insurances	Information on the right of withdrawal for insurances covered by that right	Insurances covered by Article 6 of DMFSD	Covered by EDP and GDPR	Article 9 of the DMFSD was amended by UCPD
Personal pensions	Fully relevant	Fully relevant		
Investments	Information on the right of withdrawal for Investments covered by that right	Investments covered by Article 6 of DMFSD		
Payment services	Mostly non-relevant	Mostly non-relevant		

Source: ICF (2019)

Overall, for the current landscape of financial services sold at the distance, we conclude that the DMFSD is (see Figure 13):

- Partially relevant for the objective on pre-contractual information, as this is mostly addressed by other product-specific legislation;
- Mostly relevant for the objective on to the right of withdrawal, as this is only partially addressed by addressed by other product-specific legislation;
- Mostly non relevant for the objective on preventing unsolicited communications and services as this is addressed by horizontal legislation.

Regarding redress the DMFSD seems mostly non-relevant as the majority of product-specific legislation as more stringent provisions than the DMFSD (see Section 4.4.3).

It is however not possible to assess the relevance of the DMFSD for innovative financial services that might emerge in the future, as they might be or not covered by product-specific legislation. As an example, it is still unclear what product-specific legislation applies to virtual currencies (in some cases they may be considered investments, in other cases they are not) and to the financial providers that sell them (see Annex 1, case study 3).

Pre-contractual information

The relevance of the provisions on pre-contractual information has been significantly reduced by the introduction of product-specific legislation that covers this aspect often more extensively than the DMFSD and in a way that is better adjusted to the service/product it regulates (see Section 4.3). Nevertheless, as mentioned in the previous section, product-specific legislation only regulates the type/amount of information that needs to be provided and does not cover aspects related to the way that information should be presented.

The relevance of the provision on pre-contractual information differs for banking products consisting of payment accounts and savings accounts. For payment accounts, this objective was to some extent addressed by the PSD I since late 2009. And is now mostly addressed since the implementation of PAD in 2016 which has more extensive requirements regarding pre-contractual information than DMFSD (e.g. provision of information on the most representative services linked to a payment account, and switching services) and also ensures that consumers have access to at least one website comparing fees for at least the services listed in that Directive. However, PAD does not require the provision of information on the right of withdrawal. For savings accounts the requirements the provision on pre-contractual information set by DMFSD are more extensive than the ones imposed by the Directive on deposit guarantee schemes. Therefore, for banking products the DMFSD provision on pre-contractual information is still partially relevant.

On consumer credit, this objective is mostly covered by the CCD since 2010. There are, however, important exceptions as some consumer credits fall outside the scope of the CCD, i.e., consumer credits below EUR 200 and above EUR 75,000. Therefore, the DMFSD provision on pre-contractual information is still relevant for all consumer credits sold at distance not covered by the CCD[284]. This is the case in particular for pay-day loans (below EUR 200) which are usually sold through the internet or by phone (see Annex 1, case study 5). These are short term and unsecured loans that tend to be risky and the cause of high consumer detriment. Consequently, ensuring that consumers receive appropriate information about the products, supplier and contracts is of high relevance for this product.

For mortgages, this objective became fully addressed by the MCD in 2016. Thus, the DMFSD is no longer relevant to ensure that consumers are better informed in the context of mortgages.

On insurances, this objective became partially addressed by Solvency II in 2016 and in 2018 mostly addressed by the PRIPPs and IDD. The Solvency II has pre-contractual information requirements for life insurance contracts that are to some extent similar to the DMFSD. The PRIIPs contains very detailed pre-contractual information requirements that are more detailed than those under the DMFSD but only applies to packaged retail and insurance-based investment products. The IDD establishes similar pre-contractual information requirements as those foreseen under the DMFSD and adds some additional insurance-specific requirements and it is applicable to all insurance products. However, since the PRIIPs and the IDD do not provide for a right of withdrawal, they do not require information disclosure on this aspect. The Solvency II provides for a right of cancelation for life insurance contracts which is less stringent than the right of withdrawal provided by the DMFSD. Consequently, the DMFSD provision on pre-contractual information is still relevant for most insurances (except travel and baggage insurance policies or similar short-term insurance policies of less than one month's duration, since the right of withdrawal in DMFSD does not apply to them) to ensure that consumers receive information on their right of withdrawal.

For personal pensions sold at distance this objective is currently addressed by the DMFSD. However, in 2020 this objective may be, to some extent, addressed by the Pan-European personal pension product as the pre-contractual information to be provided under the PEPP is very similar to that required under the DMFSD and in a few cases more stringent information. Nevertheless, as the PEPP is a voluntary scheme and does not require information disclosure on the right of withdrawal (as it does not regulate this aspect of the contract), the DMFSD is still relevant to ensure that consumers of personal pensions receive information on their right of withdrawal and to act as a safety net for those personal pensions that did not adhere to the PEPP voluntary scheme.

Regarding investments, this objective was to some extent already addressed by product-specific legislation in the area even before the implementation of the Directive (e.g., Directive on investor compensation schemes (97/9/EC)). The implementation of the UCITS (2011), the AIFMD (2013), the PRIIPs (2016), the MiFID (2017) and the

[284] While the ECD Articles 5, 6 and 10 also cover the provision of pre-contractual information for these credits, the requirements are less extensive than the ones of DMFSD.

Prospectus Regulation (2019) contributed to further ensure that investors receive adequate information about investment products. Thus, the relevance of the provision of pre-contractual of the DMFSD is residual in the context of investment products sold at the distance.

On payment services this objective was mostly addressed by the PSD I and became fully addressed by PSD II. Thus, the relevance of the DMFSD provision on pre-contractual information for payment services sold at distance is currently residual.

Right of withdrawal

The introduction of product-specific legislation that regulates the right of withdrawal for some financial products/services had some impact on the relevance of this DMFSD provision. However, for the

Regarding banking products, neither the PAD (2016) nor the Directive on deposit guarantee schemes cover the right of withdrawal. Therefore, for banking products sold at distance, the DMFSD provision on the right of withdrawal is relevant.

On consumer credit, this objective is mostly covered by the CCD since 2010. As for the pre-contractual information provision, there are important exceptions, namely consumer credits below EUR 200 and above EUR 75,000. Therefore, the DMFSD provision on the right of withdrawal is relevant for all consumer credits sold at distance not covered by the CCD[285] (including pay-day loans below EUR 200).

For mortgages, this objective can either be achieved through the DMFSD or through the MCD since 2016, as in both cases the provision of this right is optional. Thus, the DMFSD is to some extent relevant to ensure that consumers have an effective right of withdrawal from mortgages contracts sold at distance.

On insurances, this objective is not addressed by PRIIPs nor by the IDD and is only partially addressed by the Solvency II (as it provides a right of cancelation for life insurance contracts which is less stringent than the right of withdrawal in DMFSD). Thus, the DMFSD provision on right of withdrawal is still relevant for all insurances covered by Article 6 (i.e., all except travel and baggage insurance policies or similar short-term insurance policies of less than one month's duration, since the right of withdrawal in DMFSD does not apply to them).

For personal pensions sold at distance this objective is not addressed by the Pan-European personal pension product. Consequently, the DMFSD is still relevant to ensure that consumers of personal pensions have the right of withdrawal.

Regarding investments, the DMFSD excludes all financial services whose price depends on fluctuations in the financial market outside the supplier’s control. Other relevant product-specific legislation does not regulate this aspect. Consequently, the DMFSD provision on the right of withdrawal for investments mostly not relevant in the context of investments.

On payment services this objective was mostly addressed by the PSD I and became fully addressed by PSD II. Thus, the relevance of the DMFSD provision on the right of withdrawal for payment services sold at distance is currently residual.

Ban on unsolicited communications and services

The relevance of the DMFSD on preventing consumers from receiving unsolicited communications has always been residual, because the e-privacy Directive implemented in 2003 already addressed this aspect for all financial services sold at the distance. The GDPR implemented in 2018 also addressed it extensively.

The relevance of the DMFSD on preventing unsolicited services is unclear given that the UCPD implemented in 2007 addressed this aspect and explicitly amends Article 9 of the

[285] While the ECD Articles 5, 6 and 10 also cover the provision of pre-contractual information for these credits, the requirements are less extensive than the ones of DMFSD.

DMFSD. Additionally, the PSD II fully addresses this objective in the context of payment services.

4.2 Effectiveness

The assessment of effectiveness looks at the extent to which the DMFSD has succeeded in meeting its objectives.

4.2.1 EQ3. To what extent have the objectives of the DMFSD been achieved?

Main findings

The objective of contributing to better consumer protection and trust has been achieved to some extent. The majority of the stakeholders from all groups consider that the DMFSD contributed a) to increase consumer confidence, knowledge and understanding of the products purchased, by encouraging sufficient information disclosure prior to the conclusion of the contract and b) to help consumers that changed their mind about the products they have bought.

The objective of single market consolidation has been achieved to a limited extent as many barriers to cross-border (from both consumer and supply side) that are beyond the influence of DMFSD remain. The Directive has however contributed to fostering a level playing field for financial service providers.

In this section it is analysed to what extent the DMFSD objectives of increasing consumer protection and consolidating the single market have been achieved since the introduction of the Directive. These two objectives are very broad and could not be achieved by the DMFSD alone, consequently not all changes related to these two objectives described in this section can be attributed to the DMFSD. Chiefly, the introduction of EU horizontal and product-specific legislation as reduced the relevance of the Directive (see 4.1.2) and significantly impacted what achievements can be attributed to the DMFSD and not to the other EU legislation (see 4.2.2).[286] Furthermore, the effectiveness of enforcement (see 4.2.3) and the level of compliance with the Directive (see 4.2.4) influence greatly the overall effectiveness of the DMFSD in achieving its objective.

Overall, around three quarters of the consulted consumer associations and two thirds of the consulted business associations are satisfied with the DMFSD contribution to the development of the distance selling of financial services both at the national and EU levels.[287] Only 8% (all consumer associations) indicated that they were not satisfied, mostly because of the overlaps and inconsistencies with the product-specific legislation. Some stakeholders reported that was difficult to assess the effectiveness, of which one consumer association suggested that the DMFSD should include indicators and define a process to monitor its effectiveness.

4.2.1.1 Objective 1: Consumer protection and trust

The objective of increasing consumer protection and trust has been achieved to some extent, as digitalisation brought new needs that are not addressed by the DMFSD (see also Section 4.1.1 on the relevance of the DMFSD).

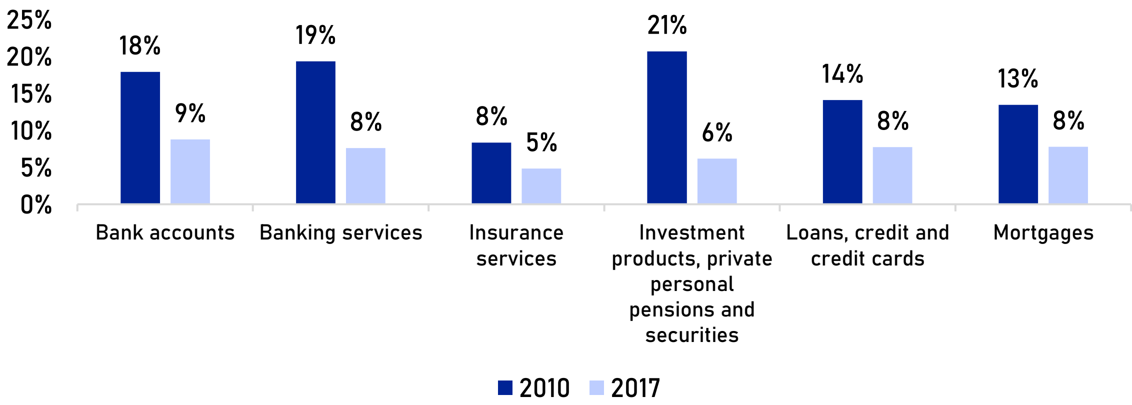
Since the introduction of the DFMSD, levels of consumer trust have increased while the number of consumers experiencing problems - and those who have complained - has

[286] When asked the majority of stakeholders consulted in the context of the OPC (60%, 9 respondents from business associations, 7 from public authorities, 6 from company/business organizations, 3 from consumer organizations and 1 EU citizen) reported that according to them, the benefits related to the key provisions of the DMFSD are mainly generated by the Directive, rather than by product-specific legislation. Only 23% of the respondents to the OPC (5 respondents from public authorities, 3 from business associations, 1 from a company/business organization and 1 from a consumer organization) reported that according to them, the benefits specified are mainly derived from product/sector specific legislation rather than from the Directive.

[287] Stakeholders surveys and interviews.

reduced for all financial services covered by the Consumer Market Scoreboards (see Figure 14).[288] This might be due to the DMFSD and other EU legislation (please see section 4.2.2).

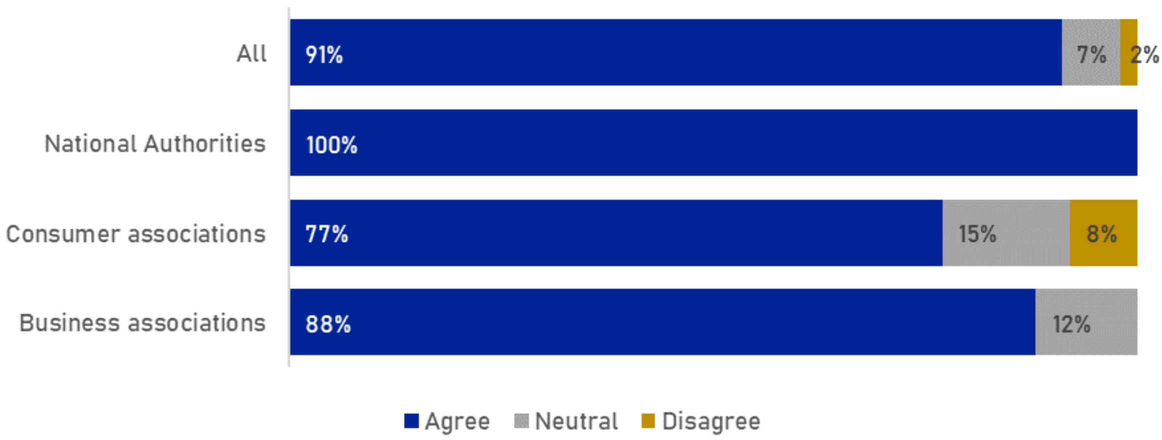
Figure 14. Percentage of consumers who experienced at least one problem



Source: Consumer Markets Scoreboard

This is in line with the overall perception of the financial service providers, business associations, consumer associations[289] and national authorities consulted regarding the overall contribution of the DMFSD to increase consumers protection (see Figure 15).

Figure 15. Stakeholders' views on whether the DMFSD has contributed to increase consumer protection in the long run, both at national and EU level.



Source: ICF (2019)

[288] Consumer Markets Scoreboard 2010-2018.

[289] Although the feedback received during the surveys and interviews differed to the findings of the OPC, as consumer associations that replied to OPC where much less positive regarding this than the ones consulted in the context of surveys and interviews. While the majority of the consumer associations that replied to the OPC considered the DMFSD not effective, more than 75% of the consumer associations consulted through surveys and interviews indicated that the Directive was effective in ensuring consumer protection in the long run. The number of consumer associations that replied to the OPC is smaller than the number of the ones consulted through other means.

National authorities are particularly positive about the role of the DFMSD in protecting consumer rights, and how is has worked well in practice (more than 75%).

Various aspects of the DMFSD, notably the access to information (in particular about the provider), the right of withdrawal, the right to redress and the right to consent (in the context of unsolicited communications and services), are judged by all groups of stakeholders to be important in preserving an appropriate level of consumer protection in distance (financial) transactions[290]. This level of protection is further heightened through complementary sector-specific legislation.

The extent to which each specific objective of the DMFSD and related expected results (see Intervention Logic – Section 2.2) were achieved is analysed below.

Provisions on pre-contractual information

The DMFSD provisions on pre-contractual information were expected to result in "better informed purchases made by consumers" and contribute to achieve the specific objective of ensuring that consumers have better access to pre-contractual information.

The majority of consumer and business associations (more than 55%, with only 6% disagreeing) consider that the DMFSD changed in practice the provision of pre-contractual information. The evidence shows diverse opinions on the effectiveness of information provision at the pre-contractual stage, but overall the majority of the stakeholders from all groups of stakeholders consider that the DMFSD contributed to increase consumer confidence, knowledge and understanding of the products purchased, by encouraging sufficient information disclosure prior to the conclusion of the contract.

A large majority of industry stakeholders consulted (above 80%) considers the DMFSD's pre-contractual information requirements to be generally effective. The nature, timing and amount of information mandated by the DMFSD at that stage are deemed appropriate, allowing consumers to make confident and/or better-informed purchase decisions.

More than three quarters of the national authorities consulted also reported that the DMFSD provisions on pre-contractual information were effective, with only 8% considering them ineffective. In particular, all consider the requirements to provide information on the provider and on the characteristics of the products and services effective.

Consumer associations are the group with less positive views on the effectiveness of the pre-contractual information, with only 54% agreeing that they have been effective (however only 8% disagreed while 38% were neutral). Based on data form the OPC, the requirements on information to be provided over the phone and about the characteristics of the products and conditions were considered by about 60% as somewhat ineffective. These views are mostly related to the fact that providers do not always comply with these requirements and also because of problems experienced by consumers in fully reading and understanding the information they receive (due to consumer bias sometimes exploited by financial provider and poor practices regarding presentation of information).

This is to some extent in line with the results of the mystery shopping exercise. Overall, 7% of the mystery shoppers considered the amount and quality of information poor and 11% fair. The mystery shoppers using smartphone apps were the ones with worst experience while the ones purchasing through a phone call were the ones with the best experience as none reported that the information received was poor. At the same time, mystery shoppers found that the amount of information and its quality was better in the case of purchases with traditional providers followed by intermediaries. Of the mystery

[290] OPC and stakeholders' surveys and interviews.

shoppers that simulated the purchase of services online domestically and cross-border and using smartphone apps considered information about:

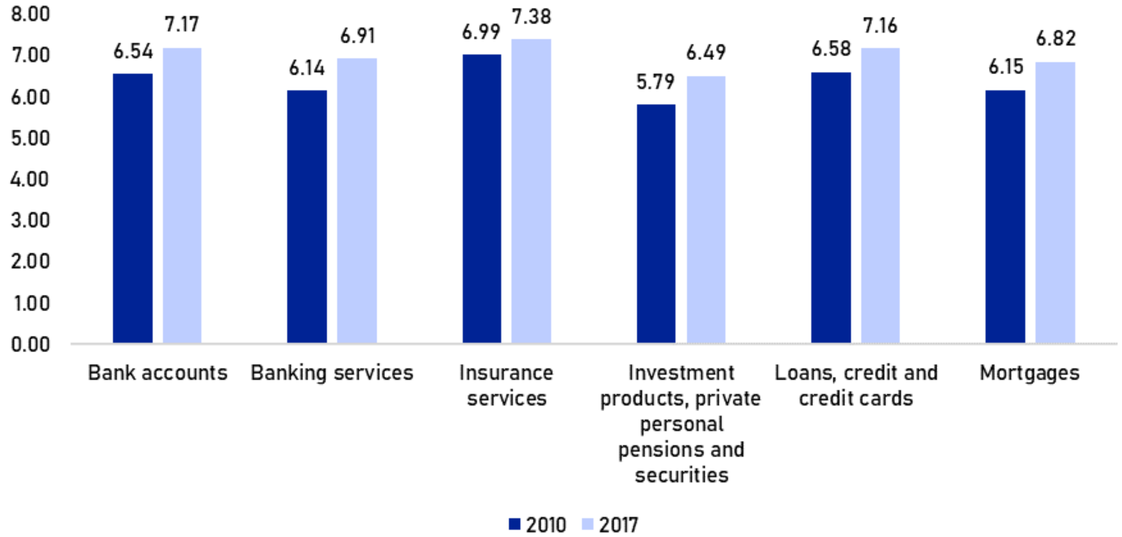
- Products: difficult to find in 14% of the cases and to understand in 14% of the cases;
- Provider: difficult to find in 19% of the cases and to understand in 14% of the cases;
- Terms and conditions: difficult to find in 37% of the cases and to understand in 22% of the cases.

Similarly, when thinking about their last experience of purchasing financial services at a distance, the surveyed consumers generally considered:

- The information provided clear, easy to understand and well-structured (44% agreed and 33% disagree);
- The information relating to their right to complain and seek redress / compensation was adequate (49% agreed and 20% disagreed);
- The information provided was complete and presented in a format that enabled me to compare it with other products (60% agreed and 21% disagreed);
- Information relating to their rights of withdrawal / early termination / cancellation was adequate (54% agreed and 18% disagreed);
- The information provided allowed them to make an informed decision about whether to conclude the distance contract (60% agreed and 15%);
- The information about the service was provided sufficiently in advance to give them time to review it (58% agreed and 18% disagreed), with 38% indicated that the information was provided by default and in 31% of the cases more than 24h before having to sign the contract.
- The information provided was presented in a way that was suitable for the device they were using (64% agreed and 13% disagreed).

A year-on-year assessment (see Figure 16) indicates that the ease of comparing products/services in the financial sector has generally improved, especially in the banking services, investment products and mortgage market segments. As mentioned before, these improvements are not all attributable to the DMFSD chiefly due to product-specific legislation (see EQ4 – Section 4.2.2).

Figure 16. Ability to search and compare products and services in the financial market (scale from 0 to 10)



Source: Consumer Markets Scoreboard

Notwithstanding the aforementioned positive views of various stakeholders on the effectiveness of the DMFSD's pre-contractual information requirements, there is evidence that the objective of reducing information asymmetries was not fully achieved (as indicated by some stakeholder from all groups). The data collected from consumers and mystery shoppers (see above) together with concerns raised by some consumer associations, national authorities and business associations, highlight that the following main points may have hindered the effectiveness of the pre-contractual provision of the DMFSD[291] (supported by research findings and related to aspects analysed in Section 4.1.1):

- *Information overload:* too much information can be detrimental to consumers, who tend not to read lengthy documentation. The pre-contractual requirements of the DFMSD may not lead to better choices simply because consumers do not analyse the information received from providers. Some financial providers have taken advantage of this consumer behavioural bias.
- *Information not presented in a way that helps consumers to read and understand it:* the way information is 'framed' influences the capacity of consumers to read and understand it[292,293]. This is particularly relevant in the context of very complex financial services/products. Existing information disclosure requirements need to be adapted to emerging communication channels, notably digital devices (e.g. smartphones), with at least one in three consumers having searched and/or bought a financial product/service on their mobile phone[294]. While the DMFSD regulates that the information should be '*provided in a clear and comprehensible manner in any way appropriate to the means of distance communication used',* the absence of guidance on how exactly this should be implemented may have reduced the effectiveness of this provision, in particular where providers have exploited these framing biases through irresponsible practices.

The two previous aspects are of particular relevance in the context of comparison tools as the overall of information is often higher (as it is often provided for more than one product at the same time) and the presentation of comparable and comprehensive information between various products is challenging.

Provisions on the right of withdrawal

The DMFSD provisions on right of withdrawal were expected to result in "consumers being able to withdraw from a contract" and contribute to achieve the specific objective of ensuring that consumers that entered into a contract due to ill or rushed decision can effectively cancel the contract. The right of withdrawal is widely accepted as an important safeguard of consumers' interests in distance transactions.

The majority of consumers (about 80% of the respondents of the consumer survey and about 60%-46% of the mystery shoppers) are duly advised of their right to cancel a contract, including the timeframe within which they can exercise this right and, if applicable, the costs they are likely to incur if they choose to do so.[295]

[291] This is applicable only in those cases for which the provision of pre-contractual information is regulated by the DMFSD and not by product-specific legislation.
[292] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[293] See EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[294] Consumer survey/research.
[295] As mentioned previously even if consumers receive information it does not mean they are fully aware of it. For example, a special 2011 Eurobarometer investigating the extent of consumer empowerment showed that consumers' awareness of their rights in respect of cooling-off periods after engaging in a distance purchase tends to be low, though it varies substantially by market segment[295]. In the case of car insurance sold through distance means, for example, more than half of consumers do not have a clear understanding of their withdrawal rights, with 27% believing (incorrectly) that they can cancel a contract and simply pay an administrative fee, 10% believing they will not be refunded if they choose to withdraw from a contract, and 18% believing they do not have the right to cancel a contract at all. See Special Eurobarometer 2011 342.

Most of stakeholders consulted (69%-88% of OPC respondents and of survey respondents) consider the right of withdrawal effective in helping consumers that change their mind about the products they have bought. National authorities are the group with the highest percentage of respondents that consider this provision effective (around 83%), followed by industry stakeholders (around 80%). Consumer associations had, however, some divergent views about this (70% of the consumer associations consulted outside the OPC considered it effective while only 50% of the ones that responded to the OPC indicated that the provision was effective). These less positive views are explained by the fact that some consumer associations consider that consumers face various obstacles when exercising the right of withdrawal, including that they are not really aware of this right for several reasons (e.g., because they were not informed about it) and face obstacles exercising their rights of withdrawal.

In agreement with the views of consumer associations some EU and national authorities indicated that some financial service providers impose a burdensome withdrawal process on consumers, which may hinder the effectiveness of this provision.[296]

Certain behavioural biases can also influence consumers' lack of willingness to exercise their right of withdrawal (see Section 4.1). As some studies show, emotions such as fear, doubt and impatience, together with the tendency to avoid cognitive dissonance, can influence consumers' decisions to keep a product or service, even if they are aware of better and/or cheaper offers from other providers. As such, some consumers would be ready and willing to incur some losses, if only to avoid the (emotional and financial) hassle that accompanies the process of rescinding a distance contract[297].

Some studies suggest (as also highlighted by one consumer association) that this right could be made more effective if consumers would have a reflection period instead of a right of withdrawal or had to explicitly confirm that they do not want to cancel the contract after the cooling-off period, instead of informing their decision to 'opt-out' of the contract (as currently required by the Directive).

Provisions on banning unsolicited communications and services

The DMFSD provisions on unsolicited communications and services were expected to have as a result that consumers are protected against these practices. The DMFSD's mandated ban on unsolicited communications and services represents a necessary consumer protection measure. The evidence suggests that these types of practices have been effectively curbed in recent years[298]. Most of consumers surveyed (68%) indicated that they did not receive unsolicited communications about retail financial services without giving their prior agreement. And 97% reported never had problems with unsolicited services.

However, as shown in Section 4.2.2 those achievements can hardly be attributable to the DMFSD due to overlapping EU horizontal legislation.

Nevertheless, a majority of the stakeholders consulted considered that DMFSD contributed to protect consumers against unsolicited communications and services to some extent. Consumer associations consulted in the OPC tended to consider these provisions of the DMFSD (62.5%) ineffective mostly due to overlaps with other legislation, while 60% consumer associations consulted outside the OPC consider that they were effective. All stakeholders considered the provision on unsolicited services more effective than the one on unsolicited communications.

Digitalisation seems to have had an impact on the achievement of these sub-objectives of the DMFSD, however, as financial providers:

[296] The EBA in its Opinion on disclosure to consumers buying financial services through digital channels, 2019, recommends simplifying the process and make it less burdensome.
[297] Azzopardi, A. (2012). The Contribution of EU Directives to the Objective of Consumer Protection.
[298] Stakeholder surveys and interviews.

- use ‘unregulated’ practices to obtain consumer consent (e.g. pre-ticked boxes) to receive communications or additional services, without them consciously wanting to;
- use of online video tools, chatbots or emails to communicate with consumers, which are allowed under Article 10(2) DMFSD, except where consumers have expressed their manifest objection.

A shared view among stakeholders is that the current ban on unsolicited communication and services could be made more effective if: (1) it explicitly banned some current practices used by providers (e.g. pre-ticked boxes)[299]; (2) it was enforced more rigorously and breaches were punished more severely[300], increasing the effectiveness of the ban by deterring non-compliance and increasing detection.

4.2.1.2 Objective 2: Consolidation of the single market

The DMFSD was expected to achieve the objective of contributing to consolidate the single market by proving a harmonised set of rules applicable to all distance sales of financial services in all EU countries, independently of the type of service/product (i.e., horizontal scope) and of the type of communication mean used (i.e., technology-neutral approach).

Overall, more than half of the consulted stakeholders considered that the DMSD did contributed to increase the level or harmonisation or convergence between national legislation (35% neither agreed nor disagreed). The opinions among the three groups of stakeholders vary[301], thou. National authorities consulted mostly (about 80%) agreed that the DMFSD had a positive effect on the level of harmonisation of national laws, while only 40% of the business providers and consumer associations though the same. 29% and 24% of business associations and consumer associations respectively, considered that the DMFSD had no effect on the convergence of national law on distance marketing of financial services. A few mentioning that the possibility of regulatory choices allowed in the DMFSD led to discrepancies between national legislation.

More than 70% of the stakeholders from all groups considered that the horizontal scope Directive effective (with all national authorities and consumer association agreeing). On the other hand, only a small majority of the stakeholders consulted agree that the technology-neutral approach was effective, with opinions among the stakeholders diverging. The majority of the business providers and national authorities consulted considered that this aspect of the DMFSD was effective, while the majority of consumer associations and business associations considered it somewhat ineffective (mostly due to the introduction of product-specific legislation, which on the hand reduced the relevance of the DMFSD and on the other hand introduced different rules for different product types).

The harmonisation of EU laws, the technology-neutral approach and the horizontal scope of the Directive were seen instrumental to contribute to the two aspects of single market consolidation: increase the cross-border sales and create a level-playing field. The extent these two aspects were achieved since the implementation of the DMFSD is analysed below. It is important to bear in mind that achievements or lack of achievements are not necessarily attributable to the DMFSD but to other factors (e.g., barrier from consumers and suppliers’ side) and other legislation.

[299] See EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.
[300] Stakeholder surveys and interviews; OPC undertaken in collaboration with DG JUST.
[301] Also, in general consumer associations and business associations and providers to that responded to the OPC had less positive views that the ones consulted outside the OPC. One explanation might be that in the OPC stakeholders did not have the option of stating that they were neutral while in the consultation outside the OPC they did.

Cross-border market

Since the implementation of the DMFSD in 2002, the proportion of sales (in the financial sector) conducted via distance channels has grown rapidly[302] mostly due to the increase of sales conducted over the internet (see Section 3.2). While the share of cross-border sales has been increasing slowly it is reasonable to assume that most of those sales are carried out over the internet.[303] This is in line with the results of the consumer survey that show that on average about 25% of the purchases of the respondents in the last 5 years were from a provider located in another Member States. There are however slight differences between product types, with investments and payment services being the ones where cross-border sales are more prominent.

Stakeholders have divergent views on to what extent the DMFSD contributed to increase cross-border distance sales of financial services. The majority of national authorities tend to agree that it had a positive contribution, while more than half of the industry stakeholders and consumer association do not agree nor disagree.

The slower (than expected) uptake of cross-border (financial) sales indicates that while the DMFSD may have provided a basis for furthering the Union's efforts in promoting the cross-border distribution of financial services[304], there are inherent barriers to the development of an integrated financial market which are beyond the influence of the DMFSD. Such barriers arise from both sides: consumers and business.

On the demand-side they include perception, emotional, cultural and language barriers, such as consumer preferences for domestic products, informational friction and a lack of trust or confidence[305]. The lack of confidence may be the result of perceived problems associated with cross-border transactions, such as websites being blocked or not being able to finalise a transaction. Of the consumers surveyed (OPC and consumer survey) only 17% had already tried to purchase financial services cross-border but 33% would consider it to find better deals. The remainder half of the consumers would not do it for various reasons, including unsureness about their rights (38%) and language barriers (12%). Consumer associations stated that the following aspects prevent consumers from purchasing financial services cross-border:

- Lack of trust in firms operating in a different Member State;
- Providers requiring a specific residence or nationality for the provision of some or all financial services;
- Concerns about lower consumer protection standards in a different Member State and lack of trust in their financial supervisory bodies;
- Differences in fiscal policies and product regulation across Member States;
- Information and documentation not available in the consumer's native language.

From the supply side, industry stakeholders indicated several barriers that are preventing them from offering services cross-borders:

- Lack of demand (comment made mostly by stakeholders from the banking industry);
- Providers generally exhibit a preference for 'serving markets in which they are physically established'[306];
- Differences in the way the DMFSD was transposed at national level;
- Entrance costs (for example, due to language barriers);

[302] Civic Consulting of the Consumer Policy Evaluation Consortium (2008). Analysis of the Economic Impact of Directive 2002/65/EC concerning the distance marketing of consumer financial services on the conclusion of cross-border contracts for financial services between suppliers and consumers within the Internal Market.
[303] Increasing digitalisation and globalisation together with European Union initiatives to promote cross-border payments (e.g., arrival SEPA) and sales will contribute to increase cross-border sales of financial services in the near future.
[304] Stakeholder interviews.
[305] European Commission (2015). Green Paper on retail financial services.
[306] European Commission (2015). Green Paper on retail financial services.

- Different tax regimes and other regulatory barriers such as: a) the exercise of the freedom of establishment to provide financial services across Europe, although helpful, is limited in scope, b) lack of harmonisation on Anti-money Laundering and Terrorism Financing requirements, lack of common rules on services and contracts.

Indeed, of those surveyed consumers that have tried to purchase online, a limited share (15%) indicated that they were satisfied with the results. 29% tried but were redirected to another website (in the case of mystery shoppers it happened in 22% of the cases), 11% indicated that the website was blocked (8% of the mystery shoppers reported a similar experience) and 3% did not manage to complete the transaction (that happened to 6% of the mystery shoppers).

Level-playing field

Evidence gathered from the desk review and stakeholder consultation[307] indicates that the DMFSD was effective in creating a level playing field and still is to lesser extent due to the implementation of product-specific legislation. This is because the DMFSD provides a minimum set of rules that all financial providers must follow, independently of the type of financial products they sell, or the distance means of communication they use. In particular, traditional providers – amid concerns of possible legal loopholes that could lead to unfair competition from unconventional providers (e.g. FinTechs) and services – consider this a significant benefit of the DMFSD. The level playing field at EU level could be improved by ensuring maximum harmonisation of the national transposition of the Directive.

About half of the stakeholders consulted considered that the DMFSD contributed to increase competition and increase the choice of financial services.

4.2.1.3 External factors that may have promoted or inhibited the observed achievements

The effectiveness of the DMFSD in achieving its two objectives – increasing consumer protection and consolidating the single market – mays have been influenced by external promoting or inhibiting factors.

The main external factors that may have promoted the DMFSD’s observed achievements were:

- Increase in consumers’ digital literacy (for example, in the period from 2014 and 2019, the Digital Economy and Society Index increased by 35%[308]), which increases their trust (and so their willingness to purchase online) and makes them less vulnerable when using online channels to search and purchase financial services. Therefore, this aspect may have contributed to consolidate the single market and to better protected consumers;
- Digitalisation of traditional providers and emergence of non-traditional providers which offer their products online, emergence of financial services available online only, comparison websites and reduction in some demand and supply-side barriers to cross-border trade due to digitalisation (e.g., such as access to online payments) (see section 3.2). This change in the supply landscape is likely to have contributed to the consolidation of the single market;
- Introduction of other EU horizontal and product-specific legislation that overlaps with the DMFSD in some respects. This may have helped to increase familiarity and reinforce the need to comply with key provisions of the DFMSD requirements;

[307] More than 80% of the stakeholders consulted agreed that the DMFSD had contributed to creating a level playing field.

[308] The Digital Economy and Society Index or DESI is a composite index that summarises relevant indicators on Europe’s digital performance and tracks the evolution of EU Member States in digital competitiveness. See section 3.2.

- Improved exchange of information between consumers, through forums and other online (social) platforms, on for example, (a) reputation, characteristics and performance of providers and services, (b) consumer rights and companies' duties, (c) problems experienced by other consumers and how to address them. This may have led to some better informed and consequently protected consumers;
- Slight improvement in consumers' financial literacy (see section 3.2), this may have helped some consumers better understand the protects they are searching for and/or purchasing and consequently be more protected.

The main external factors that may have inhibited the DMFSD's observed achievements were:

- Different approaches adopted by EU Member States in their transposition of the DMFSD (Section 3.3), which as mentioned before, is considered by industry stakeholders as a factor that reduced the effectiveness of the DMFSD in contributing to achieve harmonisation/convergence between national legislation on financial services (see above);
- Implementation of EU product-specific and horizontal legislation with (in some cases) more stringent requirements than DMFSD, (in a few cases) minor inconsistencies (on the right of withdrawal and the provision of pre-contractual information) and (in the majority of cases) overlaps (see Section 4.4). This led to some legal uncertainty but most of all to a significant reduction of what gaps could be addressed by DMFSD (see EQ2- relevance section);
- New irresponsible/misleading practices (even if legal) by some financial providers, which have become available due to digitalisation (see section on relevance and for example LE study (2019)). This led to new challenges in terms of consumer protection which were not foreseen by DMFSD and therefore not addressed by it;
- Inherent barriers to cross-border sales from both consumers and providers, which hinders the achievement of the objective of consolidation the internal market (see above);
- Behavioural biases that can unconsciously influence consumers' decision-making processes and be intentionally exploited by financial providers. These may include familiarity bias, anchoring/confirmation bias, framing bias, fear/loss aversion and herd mentality. As shown in Section 4.1.1, these biases are particularly relevant in the context of pre-contractual information and right of withdrawal, and can significantly make consumers more vulnerable and bring challenges it terms of consumer protection not foreseen in DMFSD (e.g., impact of overload of information) an therefore not addressed by it.
- Preference by some consumers for providers that have physical branches and for face-to-face purchases. While all respondents to the survey used a distance channel to search for and in some cases initiate the negation of a contract, 15% indicated that decided to conclude the contract face-to-face and 14% that decided not to conclude the contract because of concerns over the fact that the supplier did not have a physical branch.
- Marketing of complex and risky financial services (see 4.1.1) which makes consumers vulnerable because they do not fully understand the products they are purchasing and therefore make ill decisions;
- Low financial and legal literacy, which makes consumer vulnerable and reduces their capacity to fully understand the services they purchase and the contracts they sign.

4.2.2 EQ4. To what extent can the achievements be attributed to the adoption and implementation of the DMFSD?

Main findings

Due to the introduction of other EU legislation since 2004, current achievements in protecting consumers and creating a level playing field can be attributed to the DFMSD only to a limited extent.

Achievements in the context of the right of withdrawal can be mostly attributed to the DMFSD for most of the products except credits between EUR 200 and 75.000, some mortgages and payment services. Achievements in the context of pre-contractual information are mostly attributable to product-specific legislation. Achievements in the context of unsolicited communications and services are mostly attributable to EU horizontal legislation and not to the DMFSD.

It is generally recognised that by setting 'minimum compliance standards' the DMFSD has contributed to (re)shaping the consumer protection framework for distance transactions in the financial services market. In addition, it can be argued that the DMFSD paved the way for subsequent product-specific legislation in certain sectors and other legislative reform.

However, as seen in Section 4.1.2, that same product-specific legislation addresses some or all specific objectives of the DMFSD for the products regulated by them. Additionally, other horizontal legislation also addresses the objective of preventing consumers from receiving unsolicited communication and services.

Consequently, while at the time of the implementation of the DMFSD, the improvements in consumer protection and level playing field were mostly attributable to the Directive itself (as there was little national and EU legislation in place regulating the distance marketing of financial services), the achievements related to the key objectives of the DMFSD described in the previous section (solely) attributable to the Directive have decreased overtime and for most 'traditional financial services' (the exception is personal pensions).

The impacts attributable to the DMFSD in respect of pre-contractual information requirements and the right of withdrawal remain significant for (see Section 4.2.2):

- Current and future financial services not covered by product-specific legislation;
- Financial services that are covered by product-specific legislation that does not regulate these two aspects, or has less stringent requirements in that respect.

The benefits related to protecting consumers from unsolicited communication cannot be ascribed to the DMFSD, as since 2003 the EPD fully covers this aspect (and since 2018 the GDPR as well).

Pre-contractual information

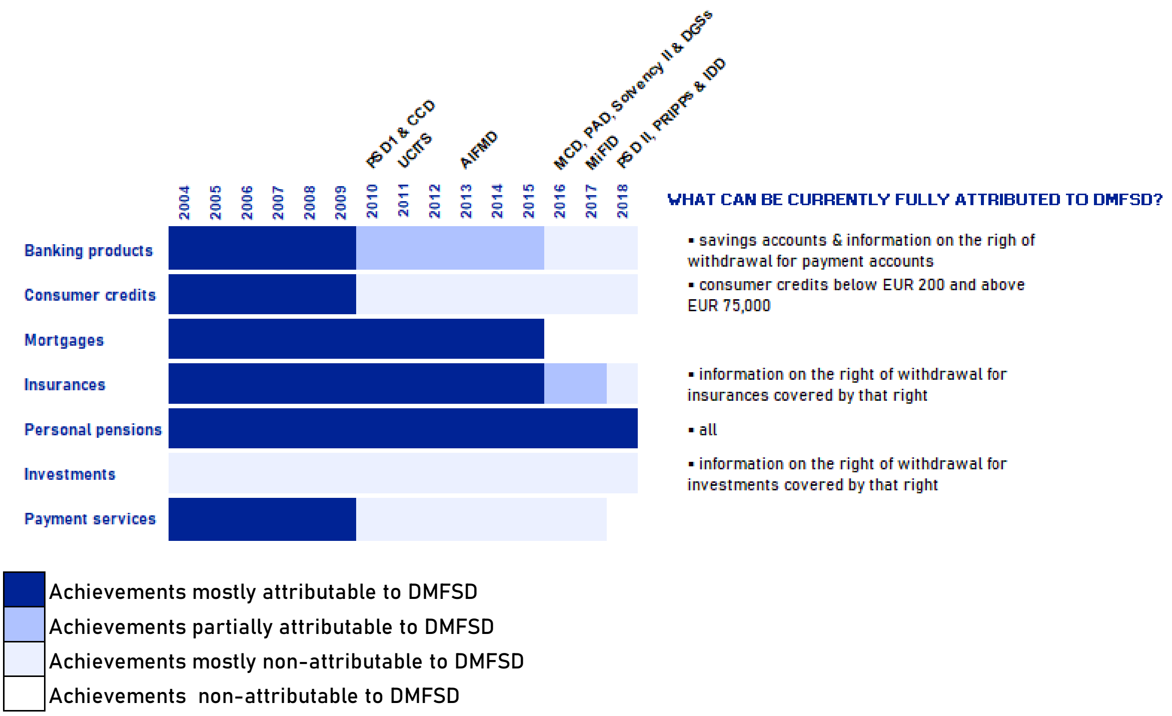
The achievements related to the provision of pre-contractual information that can be attributable to the DMFSD vary in time and per type of financial product.

When the Directive was implemented only eleven Member States had legislation partially covering this aspect and the little EU legislation in place regulating pre-contractual did not impose requirements as stringent as the ones of the DMFSD (except the ones on investments). All achievements related to pre-contractual information could therefore be attributable to DMFSD for all financial products except investments. This situation remained until the implementation of the first key product-specific legislation in late 2009 and beginning of 2010, i.e., the PSD I and the CCD. Since then, the achievements that can be attributed to Article 3, 4 and 5 of the DMFSD kept declining with the introduction of other product-specific legislation regulating pre-contractual information.

The achievements attributable to the DMFSD that relate to the provision of pre-contractual information evolved as follows (see Figure 17):

- Banking products: displaced to PSD I in late 2009 and to PAD in 2016 for payment accounts, and slightly reduced for savings accounts with the introduction of Directive on deposit guarantee schemes in 2016 (as DMFSD provisions on pre-contractual information are generally more stringent);
- Consumer credit: displaced to the CCD in 2010 for credits above EUR 200 and below EUR 75,000 and remained the same for consumer credits below EUR 200 and above 75,000 since the implementation of the DMFSD;
- Mortgages: displaced to the MCD in 2016;
- Insurances: partially reduced with the Solvency II (which sets information requirements for life insurance contracts similar to the ones set by the DMFSD) in 2016 and significantly reduced in 2018 with the PRIPPs and IDD (which do not cover information of the right of withdrawal);
- Personal pensions: remained the same since the implementation of DMFSD;
- Investments: remained low since the introduction of the DMSDF;
- Payment services: significantly reduced with the PSD I in late 2009 and then displaced to the PSD II in 2018.

Figure 17. Overview of the evolution of the attribution of achievements related to the provision of pre-contractual information



Source: ICF (2019)

Right of withdrawal

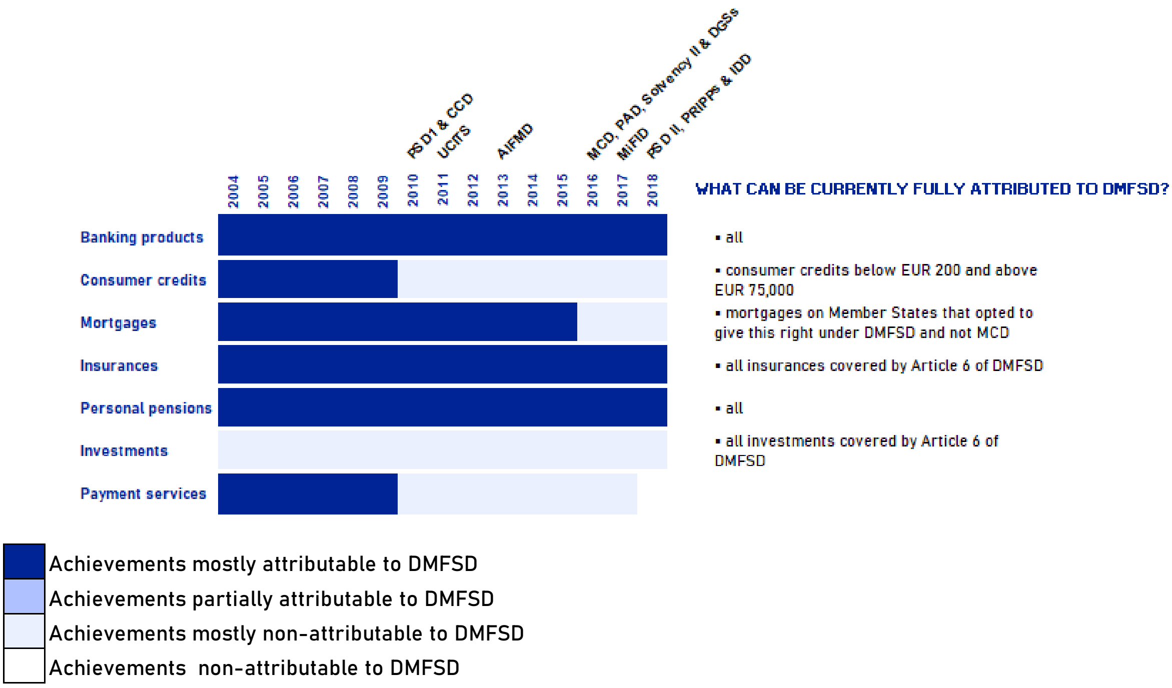
As with pre-contractual information, the achievements related to the provision of right of withdrawal that can be attributable to the DMFSD vary in time and per type of financial product.

When the Directive was implemented only nine Member States had legislation covering this aspect. All achievements related to right of withdrawal could therefore be attributable to DMFSD for all financial products covered by this right. This situation remained until the implementation of the first key product-specific legislation in late 2009 and beginning of 2010, i.e., the PSD I and the CCD. Since then, the achievements that can be attributed to Article 6 and 7 of the DMFSD declined with the introduction of other product-specific legislation regulating the right of withdrawal.

The achievements attributable to the DMFSD that relate to the provision of the right of withdrawal evolved as follows (see Figure 18):

- Banking products: remained the same since the implementation of the DMFSD;
- Consumer credit: disappeared in 2010 for credits above EUR 200 and below EUR 75,000 and remained the same for consumer credits below EUR 200 and above 75,000 since the implementation of the DMFSD;
- Mortgages: significantly reduced in 2016 with the implementation of the MCD;
- Insurances: remained the same since the implementation of the DMFSD for all insurances except the ones for which this right does not apply, namely travel and baggage insurance policies or similar short-term insurance policies of less than one month's duration (while Solvency II provides for the right of cancelation, the DMFSD right of withdrawal is more stringent);
- Personal pensions: remained the same since the implementation of DMFSD;
- Investments: remained low since the introduction of the DMSDF;
- Payment services: significantly reduced with the PSD I in late 2009 and disappeared in 2018 with PSD II.

Figure 18. Overview of the evolution of the attribution of achievements related to the provision of pre-contractual information



Source: ICF (2019)

Unsolicited communications and services

Since the implementation of the DMFSD, the achievements related to the ban on unsolicited communications are attributable the EPD (implemented in 2003), and to some extent UCPD and not to the DMFSD, as the EPD (and UCPD) already fully covered this aspect.

The achievements related to the ban on unsolicited services until 2007 can be fully attributable to the DMFSD. In 2007, the UCPD amended Article 9 of the DMFSD and therefore the attribution of the achievements were mostly displaced to the UCPD for all financial products. In 2018, the achievements for payment services related to this provision were fully displaced to the PSD II.

4.2.3 EQ5. To what extent have Member States implemented and enforced the DMFSD?

Main findings

All Member States implemented and enforce the DMFSD. There are limitations to the assessment of the effectiveness of the enforcement of the DMFSD, but on the basis of the information from the consumer survey on compliance levels this evaluation finds persistent issues in enforcing the DMFSD. There are also substantial differences between Member States in enforcement effectiveness, which are due to a combination of factors linked to the differences in the authorities responsible (and their mandate), the likelihood of non-compliance being detected and followed up on, the breadth of sanctions, and the resources available for enforcement at Member State level.

Enforcement structures

In the context of achieving the aims of the EU single market, enforcement bodies across Member States need to ensure the correct application of the DMFSD and protect consumers from subsequent misconduct. Information on infringements is provided in section 3.3. and this sub-section describes the main enforcement structures. The evaluation found that the powers assigned to each authority and the types of enforcement bodies involved in the correct application of the provisions of the Directive differ from one Member State to another.

Table 7 below gives an overview of the key national authorities responsible for compliance with the DMFSD.

Table 7. Overview of national authorities involved in the enforcement of the DMFSD

Member States	National Enforcement Authorities
Austria	Financial Market Authority
Belgium	Financial Services and Markets Authority Federal Public Service for Economic Affairs
Bulgaria	Consumer Protection Commission
Croatia	State Inspectorate Croatian National Bank
Cyprus	Consumer Protection Service
Czechia	Czech National Bank Financial Arbiter
Denmark	Danish Financial Authority Danish Financial Complaint Board Consumer Ombudsman
Estonia	Financial Supervision Authority Consumer Protection and Technical Supervision Board
Finland	Courts of law
France	General Directorate for Competition, Consumption and Repression of Fraud (DGCCF), Ministry of Economy
Germany	Federal Financial Supervisory Authority German Bundesbank
Greece	Secretariat-General for Trade and Consumer Protection of the Ministry of Economy and Development
Hungary	Consumer Protection Authority

	Hungarian National Bank Hungarian Competition Authority
Ireland	Office of Financial Services and Pensions Ombudsman Competition and Consumer Protection Commission
Italy	Public Authority responsible for regulating the Italian financial markets Bank of Italy Italian Competition Authority Institute for the Supervision of Insurance Supervisory Commission for Pension Funds
Latvia	Consumer Rights Protection Centre (CRPC) of the Ministry of Economy State Data Inspectorate
Lithuania	Bank of Lithuania
Luxembourg	Commission for the Surveillance of the Financial Sector Union of New Consumers European Consumer Centre EIG Luxembourg
Malta	Malta Financial Services Authority Financial Services Tribunal Arbiter for Financial Services
Netherlands	Dutch Authority for the Financial Markets Authority for Consumers and Markets Dutch Central Bank
Poland	Financial Oversight Commission Civil and Criminal Courts
Portugal	Bank of Portugal General Directorate for the Consumer Portuguese Insurance Institute – ASF Securities Commission
Romania	National Authority for Consumer Protection
Slovakia	National Bank Slovakia
Slovenia	Market Inspectorate of the Republic of Slovenia Bank of Slovenia Information Commissioner
Spain	National Commission on Markets and Competition Bank of Spain National Securities Market Commission General Directorate of Insurance and Pension Funds
Sweden	Swedish Financial Supervisory Authority Swedish Consumer Agency
United Kingdom	Financial Service Authority Competition and Markets Authority Department of Enterprise, Trade and Investment (UK & Northern Ireland) Department of Enterprise, Trade and Investment (Northern Ireland)

Source: ICF (2019)

The majority of Member States gave the mandate to enforce the rights and obligations contained in the DMFSD to a limited number of enforcement authorities[309], while four Member States[310] invested several bodies with responsibility for compliance with the Directive.

These bodies mostly take the form of financial supervisory authorities, consumer protection bodies and national banks. Financial supervisory authorities are generally responsible for regulating, authorising and monitoring creditors and financial institutions within the financial market of a Member State in question. Consumer protection bodies deal with/are responsible for alternative dispute resolution and frequently develop consumer protection strategies. National banks typically have the power to oversee the activities of creditors and other regulatory and supervisory powers of the financial market, while also having the authority to impose sanctions.

14 Member States[311] have a financial supervisory authority that is responsible for ensuring compliance with the DMFSD.

In 10 Member States[312], consumer protection bodies monitor the provisions of the DMFSD. The Bulgarian legislator, for example, appointed the Consumer Protection Commission to advise consumers and raise awareness of their rights concerning distance contracts of financial services, and to assist them in solving disputes and complaints. It can also carry out spot-checks and impose financial penalties for non-compliance with credit regulation. In Poland, the Financial Oversight Commission is the authority directly responsible for the supervision of the financial market.

In some Member States, such as Denmark and Ireland, the Consumer Ombudsman fulfils the role of a complaint mechanism for consumers. In Denmark, for instance, the Consumer Ombudsman (DCO) is the authority in charge of bringing civil and criminal actions on behalf of complainants. While the DCO does not settle individual disputes between consumers and traders as such, it has the power to request the police to initiate investigation and prosecution against a trader and to issue an interim injunction.

Italy, Portugal, Spain and the UK have appointed several bodies for ensuring correct implementation of the DMFSD. Italy, for instance, made a distinction based on the financial service provided. More specifically, the Bank of Italy is responsible for banking, credit and payment services, the Institute for the Supervision of Insurance ensures the application of the relevant guarantees in the field of insurance, and the Italian Competition Authority deals with unfair commercial practices and unfair terms. Poland and Finland chose to delegate the enforcement of the DMFSD's provisions to their national courts. In Finland, only courts of law have such a mandate. Poland however, has a binary structure: individual consumer rights are enforceable, depending on the subject, before civil courts and (to a limited extent) before criminal courts, whereas collective consumer rights generally fall within the scope of administrative enforcement, and are encompassed by the Office of Competition and Consumer Protection (which performs market supervision and imposes financial sanctions in the case of violations of collective interests of consumers).

Lithuania, Romania and Slovakia delegate national banks for the enforcement of the DMFSD, while other Member States foresee the banks' involvement in liaison with other relevant authorities[313]. In Portugal, for example, the Bank of Portugal regulates, oversees and sanctions the conduct of the supervised institutions and promotes the financial information and education of bank customers. The banking conduct supervision carried out by the Bank aims to protect the transparency and fairness of transactions

[309] One/two authorities involved: AT, BE, BG, HR, CY, EE, FI, FR, DE, EL, IE, LV, LT, PL, RO, SI, SE.
[310] ES, IT, PT, UK
[311] AT, BE, DK, DE, EE, ES, IT, MT, LU, NL, PL, SI, SE, UK.
[312] BG, CY, DK, HU, IE, LU, NL, RO, SE.
[313] CZ, ES, HU, HR, NL, PT, SI.

and to ensure compliance with the regulatory framework for banking products and financial services.

Enforcement effectiveness

Conducting regular controls, planning supervisory activities and imposing dissuasive sanctions, are the key tools identified by national authorities[314] to enforce the right of consumers to access correct pre-contractual information, the right of withdrawal and the ban of unsolicited communication and services.

There are a number of limitations to the assessment of the effectiveness of enforcement of the DMFSD. Firstly, Member States do not distinguish enforcement approaches by legislation (DMFSD, sector-specific legislation) and rather on the basis of specific responsibilities they have. Secondly, the evaluation had access to information on enforcement procedures and sanctions imposed by Member States but not access to data on enforcement directly (e.g., number, coverage, frequency and effectiveness of sweeps, mystery shopping exercises, etc.) nor on complaints registered related to distance contracts only and how they were followed up. Effectiveness of enforcement is therefore mostly based on the perception among consumers and consumer organisations of issues with the right of withdrawal, receipt of pre-contractual information and indications on the respect of the ban on unsolicited marketing and services and on the views of national authorities. Thirdly, there is a disincentive in highlighting potential problems in enforcement as it could exacerbate existing problems by showing systemic weaknesses or blind spots.

However, on the basis of the information the consumer survey and associated compliance levels (see section 4.2.4) this evaluation finds persistent issues in enforcing the DMFSD. There are also substantial differences between Member States in enforcement effectiveness, which are due to a combination of factors including the authority responsible (and their mandate), likelihood of non-compliance being detected and followed up on, the breadth of sanctions, and resources available at Member State level.

This evaluation finds that the majority[315] of the authorities surveyed indicated that consumers, in their respective countries, are adequately protected in case of non-compliance with the DMFSD, while 21% believed that consumers are protected only to some extent. While data on the evolution of the number of complaints specifically related to distance contracts is not available, according to the Consumer Markets Scoreboard, the number of problems experienced by consumers and the number of complaints in the financial market (overall) have been decreasing since 2011 (first year for which data is available). However, of the markets analysed, the financial sector has been one of the worst performing markets.

Almost 70% of the national authorities consulted positively responded to the question if they did or did not receive complaints from consumers about financial services. The most problematic aspects identified are the non-exhaustive pre-contractual information provided to the consumers before the signature of the contract (63%); the unsuitability of the financial product/service that the consumer needed (47%); and hidden fees (47%).

Moreover, 27% of the national authorities consulted reported they are aware of cases where consumers made use of appeal options when they did not feel adequately protected. Of those, 86% identified the judicial measures as the first remedy used by consumers to restore the prejudiced right of the consumers, 71% ombudspersons and consumer associations, followed by complaints bodies (64%) and mediation (29%).

[314] National Authority survey results.
[315] *Would you say that consumers in your country are sufficiently protected in cases of non-compliance with the DMFSD?* 64% yes, 21% to some extent, 11% Don't know, 4% no.

While 69% of the consumer associations consulted, reported to have received complaints from consumers concerning their right of withdrawal. Specifically, most complain concerned about the lack of awareness of consumers on the possibility of benefit from the mentioned right at the moment of the purchase, the refusal by the provider to accept the withdrawal and experienced bureaucratic difficulties faced by consumers while exercising their right.

In addition, among the consumers consulted through surveys, only eight of the 496 respondents experienced problems with the financial services contracted (2%). Of those, six raised a formal complaint with the provider (following their internal procedures), one raised a formal complaint with a third party (such as ombudsman, consumer organisation, consumer protection agency) and one did nothing. For 50% of the respondents, the issue has been closed without being resolved, and 25% are still waiting for its resolution. Of the two respondents that saw their issues solved, one was satisfied with the result (and was awarded a compensation) while the other was not. Section 3.3 provides an overview of relevant case law at EU and national level related to the provision of pre-contractual information and right of withdrawal.

Of the national authorities consulted outside the OPC, only 18% reported having encountered specific problems in enforcing the DMFSD. These problems mostly related to difficulties with contracts concluded through phone calls, new technological developments (e.g., chatbots) and legal uncertainty due to overlapping legislation.

A consumer association and a business association stated that enforcement could be made more effective by enhancing the cooperation and coordination of the various national authorities involved in enforcing the DMFSD.

Redress

Article 14 of the DMFSD aims to ensure that Member States set up or develop adequate and effective out-of-court complaints and redress procedures to settle consumer disputes on distance financial services.

Most Member States[316] transposed Article 14 correctly. While Belgium, Croatia, Estonia, Finland, Greece, Ireland, The Netherlands and Poland did not introduce any specific provisions intended directly to implement Article 14 because pre-existing legal and procedural mechanisms were considered adequate to ensure proper protection for consumers. For instance, the Irish lawmaker, in the process of transposition, directly gave the Financial Services and Pensions Ombudsman (FSPO) the jurisdiction to investigate and adjudicate disputes between the consumer and the supplier under the DMFSD. Similarly, Greece did not take measures to promote alternative dispute resolution because the National Consumer Protection Law already provided for adequate out of court redress. In particular, the national legislator appointed more than 55 Friendly Settlement Committees which are based in the local offices of the Regional Units and Provinces of the country. Both consumers and consumer associations may appeal to settle their disputes with suppliers (businesses) directly before the local committee or before the Consumer Ombudsman which, in turn, refers the case to the competent local committee.

The majority of the Member States have several mechanisms in place for out-of-court and redress procedures and these mostly take the form of arbitration, mediation and conciliation. Several Member States[317] appointed Ombudsmen that further fulfil the role of a complaint mechanism for consumers.

Portugal, for instance, provides consumers with access to justice through an out-of-court procedure, covering mediation, dispute resolution and arbitration. Independent entities are in charge of helping consumers and companies to solve their disputes through either mediation or a dispute resolution procedure. In the absence of an

[316] AT, BG, CY, CZ, FR, DE, HU, IT, LV, LT, LU, MT, PT, SK, SI, ES, SE, UK.
[317] BE, FI, IE, IT, PT, UK.

agreement, the parties can apply to the competent arbitration tribunal. These are usually Consumer Conflict Arbitration Centres, which also provide consumers with free advice and information.

In Finland, consumers may file a complaint with the Consumer Disputes Board or the Finnish Financial Ombudsman where they consider their rights violated. While the Ombudsman issues recommendations in insurance, banking and securities disputes, the Consumer Disputes Board reviews all other cases.

Exceptionally, Lithuania identifies the Bank of Lithuania as the sole competent authority for claims regarding the provision of all financial services, including those provided by means of communication. Similarly, Romania, alongside mediation procedures in the field of consumers’ claims for reimbursement, has set up the Alternative Banking Dispute Settlement Centre as the entity responsible for all disputes related to banking activity.

Remedies

The consumer is able to pursue remedies against the creditor when there are certain problems with the financial products acquired at a distance. The extent and type, however, are determined by Member States. The likelihood of consumers needing or requesting to pursue remedies depends on the scale of the problems they encounter. Based on the estimated share of non-compliance in sub-section 4.2.4, it means that issues most likely relate to areas where they could not exercise their right, in particular, the right to withdrawal, or not having received all or sufficient information, or the ban to unsolicited services or communications was not respected.

A 2011 Special Eurobarometer[318] showed that around three-quarters of people who experienced a problem with a financial product file a complaint, with only 27% saying that they did not proceed. The study also revealed that 54% of the consumers consulted complained to the product provider, 16% complained to an intermediary or advisor, 7% to a competent consumer rights protection association and with the same proportion saying they complained to friends or family. Only 4% complained to complaints handling body, and 3% started legal proceedings and initiated a procedure before Court.

The remedy of first resort, therefore, appears to be the lender itself, showing a fairly high degree of awareness about the possible avenues for processing complaints and pursuing remedies. This remedy is followed by resorting to third parties, including consumer associations, intermediaries, ombudsmen and finally more direct forms of complaints, such as ADR or through legal proceedings (see Section 3.3).

Sanctions

Rules on the sanctions that are applicable in cases of non-compliance and infringement of the national laws transposing the DMFSD are necessary to ensure its enforcement.

Article 11 of the DMFSD requires Member States to set out appropriate and effective sanctions in cases where the supplier fails to comply with the provisions foreseen under the Directive. All Member States transposed this Article, with the exception of Finland, which considered its existing systems for supervision and sanctions to fulfil the requirements of the Article[319].

The evaluation found that the majority of Member States apply civil and administrative sanctions, with only 11 Member States[320] providing for criminal sanctions. These usually take the form of monetary penalties and, to a minimal extent, imprisonment. In Croatia, for instance, some violations of consumer rights are regarded as a criminal offence, and some general criminal rules also apply to distance marketing of financial services. A

[318] Special Eurobarometer 373, Retail Financial Services (2011), pp. 100.
[319] The Finnish Consumer Protection Ombudsman, the Financial Supervisory Authority oversee compliance with the DMFSD transposing measures.
[320] BE, EE, FI, FR, HR, IE, LV, NL, PL, SK, UK

misleading advertisement, for example, is punishable with imprisonment for up to two years, fraud is punishable by imprisonment for up to five years, and abuse of trust and usury is punishable by up to eight years' imprisonment. In Finland, an individual or a legal entity that provides false or misleading information in connection with the marketing of financial services can be fined or sentenced to up to one year in prison. The fine is not predetermined - the court is vested with the power to decide the amount due on a case-by-case basis.

Some Member States, such as Austria, Ireland and the UK, punish the infringement of consumer protection provisions (usually combined with other remedies) with civil legal sanctions. More specifically, the instrument often used is injunctive relief. In Austria, this is a collective action that aims to condemn a violation of the law by an entrepreneur. The most significant legal consequence of the breach of information obligations in Austria concern cases where the withdrawal period does not begin until the entrepreneur has fulfilled his obligation to transmit the contractual conditions and sales information. As long as the obligation is not respected, the consumer can withdraw from the contract without stating reasons[321]. Similarly, in the UK, under the National Regulation of Distance Marketing Services, enforcement authorities may apply for injunctions (including interim injunctions) against any person who appears to be responsible for a breach. The UK Competition and Markets Authority publicises the details of any undertaking subject to an injunctive measure.

Almost all Member States apply administrative sanctions, which usually take the form of monetary fines. Different amounts are applicable for natural and legal persons, with higher fines typically applying to the latter. The range of pecuniary fines for both natural and legal persons is extensive, ranging from EUR 26[322] in Belgium[323] to EUR 5 million[324] in the Netherlands. In Greece, the legislator differentiates between minor and serious infringements. For minor incidents, the Secretariat General may issue recommendations to stop the infringement and refrain from repeating the misconduct in the future. For serious infringements, on the other hand, it may impose fines ranging from EUR 1,500 to EUR 1 million[325]. Similarly, in Slovakia, where a supervised entity has infringed the rights of a financial consumer or breached its obligations concerning financial consumer protection, the national bank may – according to the gravity, scope, duration, consequences and nature of the identified shortcoming – impose a fine of up to EUR 1 million[326]. In Portugal, a set of stringent sanctions applies in the event of the supplier's failure to comply with the national provisions transposing the DMFSD. The fines range from EUR 2,500 to EUR 1 500 000[327], in case of legal persons, and from EUR 1,250 to EUR 750 000[328], in case of natural persons. In addition to the abovementioned fines, ancillary sanctions may also apply, such as the interdiction of the exercise of the professional activity to which the infraction respects, for a period up to three years; the inhibition of the exercise of social positions and functions of administration, management, leadership and supervision for a period up to three years; the publication of the final sanction.

In some Member States, the fines imposed on creditors are linked to their annual turnover, with Latvia defining that a fine cannot exceed 10% of the creditor's annual income and EUR 100 000[329] for unfair commercial practices, while in Lithuania it is

[321] Similarly, in Germany: *the withdrawal period does not start to run before correct withdrawal information has been given* (Article 356 BGB).
[322] Adjusted for price level value: 24 EUR
[323] An infringement of the rules on distance selling of financial products in bad faith is sanctioned with a penalty of EUR 26-25,000 (Article XV.84 CEL juncto, Article XV.70 CEL (previously Article 125 AMPCP and Article 103 ACPCP)).
[324] Adjusted for price level value: 4.4 million EUR
[325] Adjusted for price level value: from EUR 1,825.84 to EUR 1,217,226
[326] Adjusted for price level value: EUR 145,061.46
[327] Adjusted for price level value: from EUR 2,983.56 to EUR 179,013.42
[328] Adjusted for price level value: from EUR 1,491.78 to EUR 895,067.11
[329] Adjusted for price level value: EUR 141,848.80

limited to 3%. While in Slovakia the amount of the fine can be up to twelve-times of the monthly average income of the fined person, depending on the gravity, duration of the breach, degree of culpability, nature of the violation.

Member States can also take other measures to ensure the enforcement of the Directive, with the most common being: time-limited or permanent suspension of creditors in the case of frequent offences[330]; nullification or voiding of the contract or the infringing clause(s); and restriction of the creditor's business activities[331]. Some Member States[332] also grant a right of compensation for eventual damage caused by non-compliance with the information obligation, or by the relevant professional misconduct.

In Italy, the contract is declared null if the supplier (i) impedes the consumer from exercising the right of withdrawal, (ii) does not return to the consumer any received sums or (iii) infringes prior information duties. These provisions do not prejudice the right of the consumer to claim for damages.

In France, the legislator foresaw stringent civil and administrative sanctions. Alongside administrative fines in cases of a breach of information obligations and the nullification of the relevant infringing clause(s), if the trader does not refund the full amount paid by the consumer, the penalty increases progressively with the number of days the payment is delayed. The penalty rates range from 5% (if the delay is 10-20 days) to 50% (delays of 60-90 days).

Table 8. Overview of sanction framework

	ADMINISTRATIVE AND CIVIL SANCTIONS						CRIMINAL SANCTIONS
Member States	**Pecuniary Fine**	**Injunctive relief**	**Claims for damages**	**Clauses Void-Null**	**Temporary - Permanent Suspension**	**Order to stop the misconduct**	
AT		√	√				
BE			√				√
BG	√						
CY	√					√	
CZ						√	
DE							
DK	√						
EE	√						√
EL	√				√	√	
ES	√			√	√		
FI							√
FR	√			√			√
HR	√				√		√
HU	√		√				
IE	√	√					√
IT	√		√	√			

330 EL, ES, LU, LV, SK.
331 LV, LU.
332 AT, BE, IT, PL.

LT	√						
LU	√				√	√	
LV	√						√
MT	√			√			
NL	√						√
PL	√	√	√				√
PT	√				√		
RO	√						
SE	√					√	
SI	√						
SK	√				√	√	√
UK	√						√

Source: ICF (2019)

Stakeholders consulted did not provide their views on the effectiveness of the existing sanctions, with the exception of a couple of stakeholders (one consumer association and one business association) that mentioned that the DMFSD could be more effective if it was enforced more rigorously and breaches were punished more severely[333]. Additional data is not available to allow for a more in-depth analysis of the effectiveness of the existing sanctions, nevertheless the moderate level of compliance with the DMFSD key provisions (see Section 4.2.4) suggests that supervision and/or sanctions are not fully effective

4.2.4 Q6. To what extent have financial service providers complied with the DMFSD?

Main findings

Data suggests a moderate level of compliance with the key provisions of the DMFSD. The compliance levels are not the same for all provisions, though. While the level of compliance with the provision on unsolicited services is considered very high, the compliance levels with the right of withdrawal are moderate-high, and only moderate when it comes to pre-contractual information and unsolicited communication.

This section analyses the compliance of financial providers with the key provisions of the DMFSD. It is important to highlight however that wherever there are overlaps between the DMFSD and other EU legislation it is not possible to determine whether the providers complied intentionally or not with the DMFSD.

The prevailing view among financial service providers, business associations and national authorities that the obligations set out by the Directive are generally reasonably well met[334]. In particular, respondents in the latter two groups have reported compliance levels to be 'high' or 'very high' across Member States.

The interplay between the DMFSD and other (EU and/or national) legislation could explain a certain degree of the satisfactory compliance levels[335] in particular regarding the provision of pre-contractual information and unsolicited communications and services where there are the most overlaps between DMFSD and other EU legislation.

[333] Stakeholder surveys and interviews; OPC undertaken in collaboration with DG JUST.
[334] Surveys and interviews with relevant stakeholders.
[335] Interviews with relevant stakeholders.

There is, however, some indication of compliance failings. Almost 70% of the national authorities consulted mentioned that they have received complaints in the context of the provision of pre-contractual information and right of withdrawal (mostly related to insurances, credits and investments). The extent and reasons for their occurrence are not sufficiently understood, although compliance costs[336], private incentives to mislead the consumers and legal uncertainty may constitute important drivers of such non-compliant behaviour[337]. The first two factors indicate that (some) financial providers have private incentives in not complying with the DMFSD. The provision of pre-contractual information imposes some recurrent costs and contributes to more informed decisions (which might go against the interest of some financial providers). Similarly, the right of withdrawal imposes some costs with processing the withdrawal request and cancelling the contract and goes to some extent against the immediate private interest of the financial providers (as generally, their objective is to have as may sales as possible). A lack of legal certainty has been attributed to lack of clarity of some definitions of the DMFSD (see Section 4.2.3), differences in the transposition of the DMFSD across Member States, as well as various overlaps and inconsistencies between the DMFSD and other EU legislation[338] (see Section 4.4). This lack of clarity on which rules apply, and the exact meaning of those rules, may have contributed to financial providers unwittingly failing to comply with the DMFSD.

Compliance with the provision on pre-contractual information

The level of compliance with providing the pre-contractual information required by DMFSD in good time appears to be moderate based on the evidence gathered in the study through the OPC, consumer survey and mystery shopping complemented with the views of the consumer associations and national authorities consulted.

Overall, 58% of the national authorities consulted consider that providers comply with the information requirements (with only 14% disagreeing with the statement). When asked about whether they agreed that consumers are provided with comprehensive and correct information at pre-contractual stage, more than 60% of the national authorities agreed (with 25% not agreeing nor disagreeing), while only one third of the consumer associations did so (one remaining third disagreed, while the other third stated that they did not agree nor disagree).

The compliance with the pre-contractual information varies with the type of information that needs to be provided (about the service/product, the supplier, terms and conditions).

Regarding the data on the characteristics of the service, the data gathered through the consumer survey indicates a level of compliance with this requirement of around 80%, however in 20% of the cases the information was available on request. The evidence collected through the mystery shopping exercise suggests a lower, but still moderate, level of compliance with the requirement to inform consumers about the main characteristics of the service at pre-contractual stage (about 60% on average for all products/services covered, around 70% the travel insurance and current accounts, and only 45% for credit cards). According to the data collected through the mystery shopping exercise, the compliance level with the requirement to give information about the supplier to consumers is moderate-high, as on average 85% received information about the identity of the supplier, 71% about the main business of the supplier and 61% about the geographical address.

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[336] The magnitude of compliance costs can also have important implications for adherence levels among regulated parties. The higher the costs, the more likely that providers may not be willing and/or able to comply with the necessary legislative requirements.

[337] Desk research and surveys/interviews with financial service providers, business associations, and national authorities.

[338] Desk research and surveys/interviews with financial service providers, business associations, and national authorities.

The consumer survey indicates a high level of compliance (around 74%-83% depending on the type of information, with 83% reporting having received information about the right of withdrawal and its conditions) with the requirement to inform consumers about the terms and conditions of the contract, but in 13%-20% of the cases the consumer had to request the information from the provider. The mystery shopping exercise suggests a much lower level of compliance of around 40%. The compliance level with the requirement to provide information about the right of withdrawal reported by the mystery shoppers is however around 55%.

Regarding the requirement to provide information about redress mechanisms, consumer surveys reported a compliance rate of 70%, while data from the mystery shopping suggests that only in 30% this information is provided.

Data from the consumer survey and mystery shopping suggests that pre-contractual information is commonly spontaneously disclosed to consumers[339]. Pre-contractual information is also usually provided in "good time" before the signature of the contract according to the consumers surveyed in the context of the OPC and consumer survey and to the results of the mystery shopping (in a significant share of the cases the information is provided by default on the website of the provider). While the majority of the national authorities consulted also agree with this, half of the consumer associations consulted consider that consumers are provided with the relevant information in good time before the consumer is bound by a contract.

More than 40% of the national authorities consulted indicated that "the information provided before the signature of the contract was not comprehensive and did not cover all relevant obligations of the consumer" as a problematic issue faced by consumers in the context of the DMFSD. Several factors affect the provision of pre-contractual information (as part of distance sales) and lead to consumer detriment, including[340]:

- Mode of sale/purchase: some stakeholders highlighted the deliberate omission of information during contract discussions over the phone with prospective customers. This however is not corroborated by the results of the mystery shopping exercise.
- Type of product/service: consumer associations highlighted that some providers of innovative services believe their services are exempt from the definition of financial service in the DFMSD, thus they do not comply with this provision.
- Medium used to provide the pre-contractual information: some providers use their websites or mobile applications to provide the pre-contractual information to users. However, as seen in Section 3.3, some websites cannot be considered a 'durable medium'. This is corroborated by the results of the mystery shopping since in a vast majority of the cases the pre-contractual information was provided in the website and through no other means (e.g. email or post);
- Clarity and comprehensibility of the information and the appropriateness of its presentation to the means of distance communication used: studies show that providers often do not provide the information according to these requirements, instead using practices such as those listed in Section 4.1.1.

Compliance with the provision on the right of withdrawal

The extent of compliance with the DMFSD's cancellation provision appears to be moderate-high based on the data gathered from consumers, consumer associations and national authorities.

Half of the consumer associations consulted and 75% of the national authorities consider that the 'right of withdrawal' is generally respected, with providers seldom failing to meet their obligations in this respect[341]. Of the consumers surveyed, of the ones that

[339] Consumer survey and OPC carried out as part of this research.
[340] Stakeholder interviews.
[341] Survey with consumer associations and Member State national authorities.

finalised a purchased using a distance mean of communication, about 20% withdrew from the contract (98 respondents), and of those only 2% experienced problems.

This is in line with the views collected from national authorities, as only three (around 5%) indicated the providers' refusal to cancel contracts within the cooling-off period and providers trying to charge costs for withdrawal from the contract, as main problematic issues faced by consumers.

Various commercial tactics are used to circumvent potential revenue losses that can arise from withdrawals[342]. For instance, providers may require consumers to make the first payments after the standard 14-day cancellation period has elapsed, for example within a month of receiving their contractual agreement. The aim is to shift the consumer's attention away from the timeframe set for cancelling to the timeframe set for making a first payment. By then, if the consumer wishes to withdraw, they will have missed the opportunity to do so. This practice is often discussed in the context of insurance products contracted by phone, where premium payments often begin one month after an agreement is sent to the consumer[343]. Another tactic is to make the process complex and burdensome which can discourage or prevent consumers from using the right.

Among the most common complaints in relation to withdrawals from contracts, nearly two out of five relate to consumers being subject to hidden charges or fees upon initiating the withdrawal process[344]. About one in three consumers describe providers' miscalculations that would have shortened the withdrawal time window and potentially prevented them from exercising their right to withdraw[345].

Compliance with the provision banning unsolicited communications and services

Data gathered from consumer associations, national authorities and consumers indicate that the level of compliance with the provision on unsolicited services is very high, while the compliance with the provision of unsolicited communications is moderate.

All national authorities consulted (and that expressed an opinion) indicated that financial institutions in their country mostly respect the provisions related to unsolicited services and communications (with one third considering that they do it to some extent). On the other hand, only 55% of the consumer associations consulted indicated that financial providers are generally compliant with these provisions[346].

Satisfactory compliance levels have been attributed to the application of strict scrutiny and rigorous supervision processes in the financial sector, which may have helped to detect compliance failings more effectively[347]. Synergies between the DMFSD and other regulations (e.g. EDP and GDPR) have also helped to increase providers' awareness of the illegality unsolicited communications and/or marketing unwanted services to consumers without their prior consent, possibly limiting potential breaches[348].

Member State authorities have signalled a higher likelihood of problems when it comes to the Directive's provision on unsolicited communications (when compared to unsolicited services). This has been corroborated by various consumer organisations. Concerns have been raised in relation to spam tactics and 'aggressive telephone solicitation techniques' used by providers, despite many consumers denying permission for unwanted marketing.

[342] Survey with business associations, consumer associations and Member State national authorities.
[343] Survey with business associations, consumer associations and Member State national authorities.
[344] Survey with business associations, consumer associations and Member State national authorities.
[345] Survey with business associations, consumer associations and Member State national authorities.
[346] Stakeholder surveys and interviews.
[347] Survey with business associations, consumer associations and Member State national authorities.
[348] Survey with business associations, consumer associations and Member State national authorities.

Results from the consumer survey indicate that almost 70% of the respondents have never received unsolicited communications about retail financial services without giving their prior agreement.

As regards the sale of unsolicited services, there is no indication that this practice is commonly used by providers. Evidence from the consumer research indicates that most consumers have not had to pay for a service they did not seek in the first place[349]. This observation was confirmed by national authorities and consumer associations[350]. Some studies, however, have found unfair practices in this respect, with providers using, for example, pre-ticked boxes to add services without the explicit consent of the consumer (consumers have also indicated that preventing this practice is important).

4.3 Efficiency

The assessment of efficiency considers the relationship between the resources used by an intervention and the achievements and related benefits of the intervention.

4.3.1 EQ7. What are the costs and benefits (monetary and non-monetary) attributable to the DMFSD?

Main findings

The DMFSD led to one-off and recurrent costs for public administrators and financial service providers (which are eventually passed on to consumers) and benefits to the consumers due to higher levels of protection.

The costs for public administrators include one-off costs to transpose the Directive and to implement/adapt the necessary complaint and redress mechanisms and recurrent costs to monitor compliance, enforce and manage complaints. The financial providers had significant one-off costs to adapt their systems and process to comply with the Directive and train their staff on the new requirements imposed by the Directive. Annually they also have recurrent costs with providing pre-contractual information and comply with the right of withdrawal.

The quantifiable benefits of the DMFSD relate to the reduction of the consumer personal detriment (financial and time losses).

The implementation of the DMFSD had/has (direct and indirect) positive and negative impacts on consumers, financial providers and public administrations. The size of those impacts is directly linked to the[351]:

- Existing requirements of national legislation at the time the DMFSD was transposed into national law (see Section 2.1);
- Implementation status of the Directive into national law (see Section 3.1);
- Existing overlaps with (horizontal and product-specific) EU and national legislation (see Section 4.4);
- Level of compliance of financial providers (see Section 0);[352]
- Effectiveness of the Directive in addressing the problems experienced by consumers of financial products sold through distance means of communication (see Section 4.2.2).

[349] Consumer survey/research.
[350] Stakeholder interviews and surveys.
[351] See Annex 7 for a description of how these factors were taken into account in estimating the costs and benefits of the Directive over time.
[352] In line with the analysis carried out on the coherence of the DMFSD (see section on Coherence), the vast majority of stakeholders agree that there are overlaps between the DMFSD and other EU and national legislation. However, industry stakeholders reported that recurring costs are mainly or partially generated by the Directive and not from product and sector-specific legislation. Similarly, most consumers and industry stakeholders indicated that a significant volume of the benefits to consumers come directly from the DMFSD (and not from product-specific legislation). National authorities have diverging opinions.

The key costs of the DMFSD are:

- Substantive compliance costs, which emerge as a result of 'substantive obligations' that imply substantive change for those impacted, including (i) *one-off costs* linked to the adaptation of business processes to meet information requirements; (ii) *recurrent costs,* which are sustained by the targeted stakeholders on a regular basis as a result of the existence of a legal rule, e.g. the cost of providing the consumer with a right of withdrawal for 14 calendar days at no cost. These costs are borne by financial providers.
- Enforcement costs, including the *one-off costs* related to the transposition of the Directive and to implementation/adaptation of complaint handling and redress mechanisms and *recurrent costs* linked to the need to monitor and enforce compliance with the DMFSD (e.g. sweeps, investigations). These costs are borne by public administrations. Recurrent costs with complaint handling and redress were not considered because the overall number of complaints dropped since 2004. So, while DMFSD made access to redress easier it also contributed to eliminate problems faced by consumers, and its overall impact on this type of costs seems negligible or even negative.

These costs were assessed following the methodology described in Annex 7. Other potential incremental costs of the DMFSD were not considered substantial and were not quantified, namely:

- DMFSD did not impose administrative burdens (costs related to information obligations) and hassle costs (e.g. costs related to administrative delays or opportunity cost of waiting time when dealing with administrative procedures);
- The incremental litigation costs of DMFSD for financial providers (costs to solve disagreements or disputes generated by the DMFSD) are negligible or even negative. Data from Consumer Markets Scoreboard shows that the number of problems experienced by consumers and the number of complaints has been decreasing. So, while DMFSD made access to redress easier it also contributed to eliminating problems faced by consumers.
- The indirect costs of DMFSD are considered non-existent or negligible as available data does not suggest that the supply of financial services using distance means of communication decreased due to an increase in costs imposed by DMFSD.

The potential direct benefits of the DMFSD relate to the objectives of the Directive[353]:

- To increase consumer protection and lower personal (including financial and non-financial) and structural consumer detriment;
- To consolidate the single market of financial services sold using distance means of communication, increasing demand (in turn due to an increased confidence in the cross-border market) and supply (increase in cross-border offer of products) and therefore economic surplus.

According to the findings presented in Section 4.2, the impact of the DMFSD in increasing consumer protection is considered non-negligible, due to:

- Improved consumer decision-making as a result of clear and useful pre-contractual information;
- Right of consumers to withdraw from contracts and therefore avoid non-beneficial or unfair contracts;
- Consumers not being lured into buying unnecessary or inappropriate financial services due to abusive practices, marketing services, cold calling, etc.

[353] The great majority of stakeholders agreed that the Directive was very beneficial or somewhat beneficial in ensuring a good consumer protection framework at EU level. Both consumer stakeholders and industry stakeholders agree that the existence of the right of withdrawal is the most beneficial aspect of the DMFSD.

- Better information on redress, making it easier and quicker for consumers to obtain satisfaction when they experience problems.

By contrast, the increase in cross-border sales of financial products through distance means of communication is estimated to be very small (or even negative for some financial services)[354] and although stakeholders agree that the DMFSD helped to create a level playing field for financial providers across the EU, other factors have inhibited the evolution of cross-border sales. Therefore, the evaluation found that the impact of the Directive on cross-border sales was positive but minor[355].

The results of the analysis of the costs and benefits for public administrators, financial providers and consumers are presented below (when the values of the costs or benefits depend on the demand, a range of values is provided with the lower and upper bound calculated based on the estimated lower and upper bounds of the demand in the period 2004-2018, respectively). The adopted approach followed:

- the Commission's Better Regulation Guidelines and the accompanying Toolbox (such as Tool #32 Consumers; Tool #58 Typology of costs and benefits; Tool #59 Methods to assess costs and benefits; Tool #60 The standard cost model for estimating administrative costs)[356];
- The Europe Economic study for DG SANCO on the most appropriate methodologies to estimate consumer detriment[357];
- The operational guidance document on measuring personal consumer detriment developed as part of the Study on measuring consumer detriment in the EU[358].

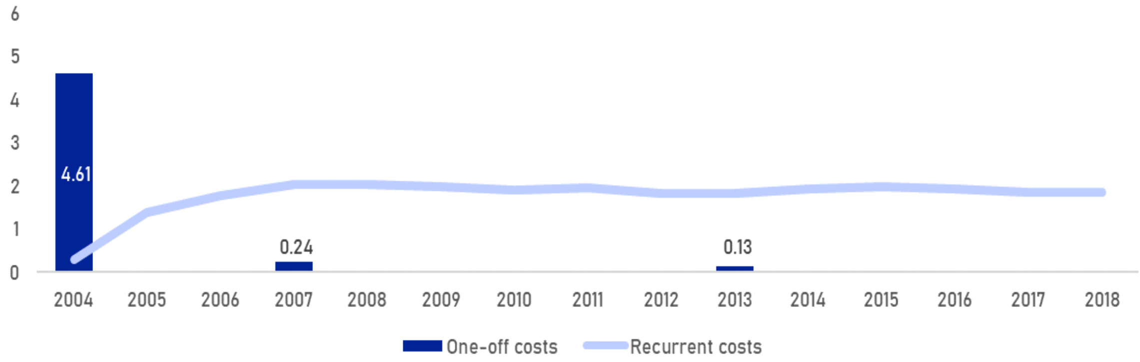
DMFSD costs

The total cost of the DMFSD for public administrations in the EU-28 for the whole period between 2004 and 2018 is estimated to be around EUR 25 million[359], which is about EUR 785.000 per Member State (see Figure 19). This includes *one-off and recurrent costs* and is in line with the views of the national authorities consulted as they indicated that *one-off costs* were less than EUR 100,000 and that annual *recurrent costs* are also less than EUR 100,000.

For public administrations in the EU-28, one-off costs in transposing the EU legislation into national law and with the implementation or adaptation of complaint handling/redress systems were about EUR 5 million. Their recurrent costs for the whole period 2004-2018 were EUR 20 million, an average of EUR 1.4 million per year (about EUR 50,000 per Member State per year). 39% were monitoring compliance[360], 43% enforcement costs (e.g. sweeps, investigations) and 18% costs related to managing complaints.

[354] See Eurobarometer 205, 373, 446.
[355] Given the small size of the change in cross-border sales and the challenges in disentangling the impact of the Directive (with any degree of certainty) from the impact of other factors, the potential benefit of the Directive in this respect was not quantified.
[356] European Commission (2015). Better Regulation Guidelines.
[357] Europe Economics (2007). An analysis of the issue of consumer detriment and the most appropriate methodologies to estimate it. DG SANCO. Available at: http://ec. europa. eu/consumers/strategy/docs/study_consumer_detriment. pdf
[358] CIVIC (2017). Study on Measuring Consumer Detriment in the European Union. Available at: https://ec.europa.eu/info/sites/info/files/consumer-detriment-study-final-report_en.pdf
[359] All costs are at prices of 2018.
[360] See section 4.2.3.

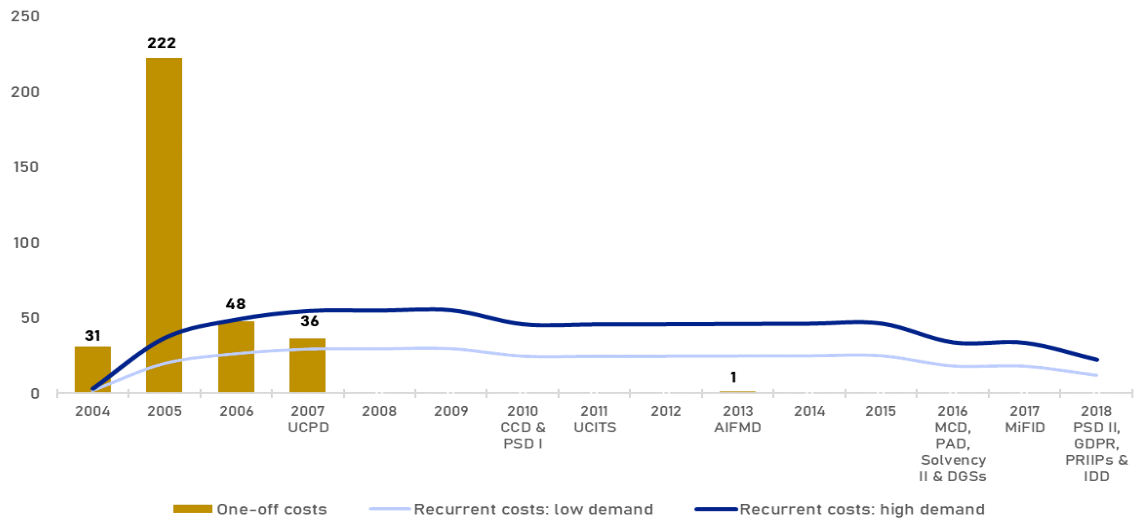
Figure 19. Overview of the estimated costs of the DMFSD for public administrations (EUR million, prices of 2018)



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

The calculation of the costs for all the financial institutions engaged in selling financial services through distance means of communication[361] for the period 2014-2018 considered a rate of compliance with the Directive of 60%-80%[362] and the rates of attribution of costs to each key provision of the DMFSD and main type of financial services[363]. The present value of the total costs to financial providers attributable to the DMFSD is about EUR 585-812 million, of which 40%-55% are one-off costs and 45%-60% recurring costs (see Figure 20).

Figure 20. Overview of the estimated costs of the DMFSD for financial providers (EUR million, prices of 2018)



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

[361] This includes credit institutions (banks and other credit institutions, monetary market funds, insurance companies and FinTechs. The percentage of institutions engaged in distance selling of financial services was estimated based on the Eurobarometer survey 2016 (see European Commission (2016). Retailers' attitudes towards cross-border trade and consumer protection) and adjusted considering the evolution of e-commerce sales in the period (issoc_ec).

[362] This estimate was based on the analysis in Section 4.2, including the results of the stakeholder surveys on the perceived compliance of financial providers and the results of the mystery shopping. The compliance rate varies for key provision: 60% for pre-contractual information, 70% for right of withdrawal, 75% for unsolicited communications and services. The overall compliance rate was considered to be around 70%. A sensitivity analysis of these parameters was carried out and the results are presented in Annex 7.

[363] Attribution rates were estimated based on conclusions presented in EQ4 in Section 4.2.2. Details about their values and the various steps taken to calculate them are provided in Annex 7.

The one-off costs incurred by financial providers included familiarisation with the Directive (costs with legal department staff), adapting IT systems to the three key provisions of the Directive, website, revision and production of documentation (costs with staff), internal communications and staff training (on pre-contractual information, right of withdrawal, ban on unsolicited services and communications and other aspects of the Directive) and implementation/adaptation of complaint mechanisms (see overview of the approach on Table 9). The present value of the one-off costs attributable to the DMFSD are estimated to have been in the order of EUR 321 million[364,365].

Table 9. Approach to calculate one-off costs of financial providers.

One-off cost	Approach to unit cost	Approach to total cost
Familiarisation with the Directive	No. of people involved in the task x No. of days per person x Average daily wage for the financial sector	Unit cost x number of financial institutions
Cost of updating/adapting IT systems	Average cost of updating/adapting one IT system	Unit cost x number of financial institutions x share of financial institutions that adapted their systems to this requirement
Staff training	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector	
Updating website	Average cost of updating website	
Updating contractual documentation	No. of people involved x No. of days per person x Average daily wage for the financial sector	
Implementation/adaptation of complaint mechanisms	No. of people involved in the trainings x No. of days per person x Average daily wage for the financial sector	

Source: ICF (2019)

The yearly recurring costs to financial providers attributable to the DMFSD relate to compliance with pre-contractual information (i.e., costs of staff time to provide the required information to customers[366]) and the right of withdrawal (i.e., costs of staff time to process withdrawal requests and cancel contracts). They are estimated to be between EUR 31-57 million in 2007/2008 (period when all Member States, except Croatia, had transposed the Directive) and EUR 13-25 million in 2018[367]. These recurring costs have significantly decreased since 2007 (about 50% overall, 70% for costs related to pre-contractual information and 15% for costs related to right of withdrawal) in spite

[364] Industry stakeholders had divergent opinions on how costly the implementation of the Directive was, which can be explained by the fact that the implementation costs are directly linked with the existing requirements of national legislation (which may have driven providers to make changes to their procedures) and the business practices of the providers at the time the DMFSD was transposed into national law. For providers that already had practices in line (or overlapping) with certain requirements and changes imposed by the DMFSD, it can be assumed that implementation costs were limited. In contrast, the Directive has likely brought about more important costs in sub-sectors or market segments where product-specific (or other forms of) legislation did not exist, or common business practices were far from the requirements set by the Directive.

[365] These costs were obtained by adjusting the data collected in the context of a study carried out for the European Commission, Directorate-General Health and Consumers (Quantification of the economic impacts of EU action to improve fee transparency, comparability and mobility in the Internal Market for personal payment accounts) to the context of this study considering the opinions gathered from financial providers. Details about the assumptions and calculations are provided in Annex 7.

[366] Based on simulations, ICF estimated that the time required to provide the required pre-contractual information is on average 1 minute. With the increase use of automated processes to provide this information to the clients in an automatic way (i.e., without requiring staff time), this estimate is considered very conservative.

[367] The lower and upper bounds correspond to the values of the recurrent costs calculated considering the low bound of demand and the high bound of demand, respectively. For details on the estimated lowe and upper bounds of demand please see Annex 7.

of the increase in the demand for financial services due to the impact of the introduction of other EU legislation (see EQ4, section 4.2.2). At the time of implementation of the DMFSD, most of the ongoing compliance costs related to pre-contractual information and right-of withdrawal could be attributed to the Directive. With the successive introduction of product-specific legislation, the impact of the Directive on recurring costs diminished. In fact, the majority of the industry stakeholders[368] consulted attribute most of their current compliance costs to other EU horizontal and product-specific legislation and national requirements as opposed to the DMFSD (as even in the absence of the DMFSD, they believe that a significant part of the costs would still be incurred[369]) or to both the DMFSD and the other legislation.

The present value of the total costs with the DMFSD (i.e., the sum of the costs for public administrations and financial providers) is around EUR 609-837 million, of which 40% to 55% are one-off costs and 45% to 60% are recurring costs. Financial providers incurred 96% of the total costs.

The total recurrent costs attributable to DMFSD remained stable from 2007 until 2010, when they experienced a first decline (due to the implementation of the CCD and the PSD I). Afterwards, they remained relatively stable until they dropped steeply in 2016 due to the implementation of product-specific legislation (i.e., mostly the Solvency II that covers pre-contractual information on insurances – a product with a high share of the market –, but also the MCD which covers pre-contractual information and to some extent the right of withdrawal for mortgages), which reduced the share of costs related to the provision to pre-contractual information attributable to DMFSD. In 2007 the total recurrent costs declined slightly due to a reduction of the number of financial providers and in 2018 decreased significantly because of the implementation of the PRIPPs, the PSD II and the IDD.

DMFSD benefits

As described in section 4.2.1, the majority of the stakeholders (from all groups) consulted agreed that the DMFSD has contributed to increase consumer protection in the long run, both at national and EU level. Of the respondents to the OPC, the majority of stakeholders from all groups (60%) considered all key requirements of the Directive very or somewhat beneficial, and mostly attributable to the DMFSD directly. About one-quarter noted that product/sector specific legislation is more recent and thus plays a greater role than the Directive.

This increase in consumer protection is translated into a reduction of the consumer personal detriment, i.e., on a reduction of the rate of problems experienced by consumers and on a reduction of the costs (financial, time and psychological) suffered by consumers when a problem occurs (i.e., magnitude).

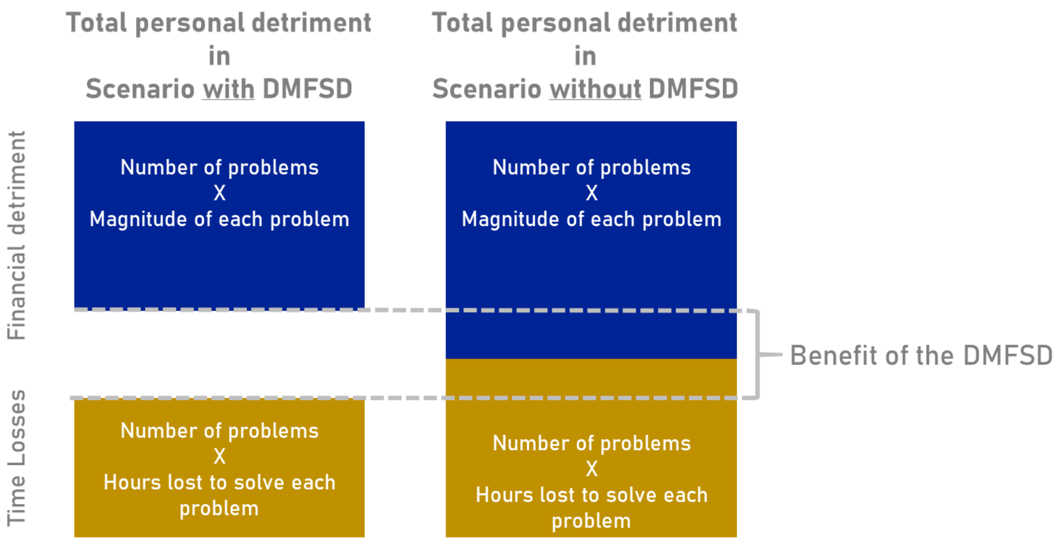
To estimate the impact of the DMFSD on the consumer personal detriment, it was necessary to calculate the actual consumer detriment in the period 2004-2018 (i.e., scenario with DMFSD) and estimate the consumer detriment in a hypothetical scenario (i.e., scenario without DMFSD) in which the DMFSD (or similar legislation) would not have been implemented while everything else would have remained as in the scenario with DMFSD (*ceteris paribus*). The difference in the consumer personal detriment between the two scenarios is the net benefit of the DMFSD. The calculation of consumer detriment followed the EC methodology[370] and was based on:

[368] A few industry stakeholders indicated that some compliance costs are attributable to the DMFSD due to the legal uncertainty that in their opinion is caused by the fact that the Directive overlaps with product-specific legislation.
[369] This was considered in the analysis by multiplying the cost by the estimated rates of attribution of costs based on the interplay between the DMFSD and other EU legislation by product and key provision.
[370] Europe Economics (2007) and CIVIC (2017).

- data from CIVIC (2017)[371] and Ipsos MRBI (2014)[372] on the magnitude of detriment per problem[373];
- data from the Consumer Markets Scoreboard on the rate of problems per main type of product[374];
- the assessed attribution of changes to the practices of the financial providers to each key provision of the DMFSD per main type of product (see Section 4.2.2);
- the assessed level of compliance of financial providers with each key provision of the DMFSD (see Section 4.2.4);
- the assessment of the percentage of problems experienced by consumers (as reported by CIVIC (2011)) that can be addressed by each key provision of the DMFSD based on the analysis of the effectiveness of Directive (see Section 4.2.1).

In each scenario, the consumer detriment was calculated per key provision of the DFMSD and per type of financial service/product[375]. The various steps followed are described in Annex 7.

Figure 21. Overview of the approach to estimate the benefits in terms of a reduction in consumer personal detriment due to DMFSD



Source: ICF (2019)

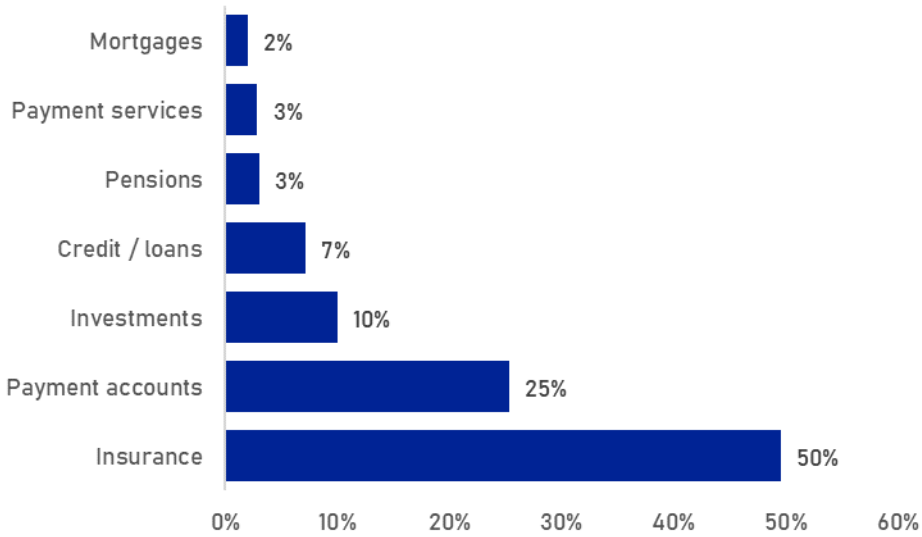
In addition to the impact on consumer personal detriment, it would have been possible for the provision on pre-contractual information of the DFMSD to have had a positive impact on the structural consumer detriment, i.e., increase of the consumer surplus as a result of switching to a better deal after receiving more information about the offers available in the market (see Europe Economics (2007)). However, data from the Consumer Markets Scoreboard shows that the percentage of consumers switching providers in the period reduced rather than increased and so this impact is either negligible or non-existent (see Annex 7).

[371] See CIVIC (2017). Study on Measuring Consumer Detriment in the European Union.
[372] Ipsos MRBI (2014). Consumer Detriment Survey 2014. Available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/Consumer-Detriment-Survey-2014-Report.pdf
[373] Data was available for a few years only and was extrapolated using the data on complaints per main type of product from the Consumer Markets Scoreboard.
[374] Data was available for the period 2010-2018 only. We used a linear regression to extrapolate that data for the period 2004-2010.
[375] Insurance, payment accounts, investments, credit / loans, pensions, payment services, mortgages.

Benefits in terms of a reduction in consumer personal detriment due to the introduction of the DMFSD are estimated at EUR 678-1,263 million[376] (present value at prices of 2018), of which 74% correspond to the reduction of financial consumer personal detriment and 26% to the reduction of time losses.

The benefits of the DMFSD vary by type of financial service (see Figure 22), due to various factors, namely the demand for financial services and incidence of problems for that service (since they both influence the total number of problems), the number of complaints for that service (since it influences the magnitude and time losses per problem) and overlaps between the Directive and product-specific legislation regulating that service (as this influences the rate of attribution of benefits to the Directive). Insurances and payment accounts have the highest benefits, mostly due to a combination of two factors: (1) they represent a significant share of the financial services purchased using distance means of communication, and (2) in both cases product-specific legislation does not (fully) cover[377] the right of withdrawal during the period of analysis and only covers the pre-contractual information from 2010 for payment accounts and from 2016 for insurances.

Figure 22. Overview of the net benefits of the DMFSD, by type of financial service (proportion of the total net benefits)



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

The benefits of the DMFSD also vary by key provision:

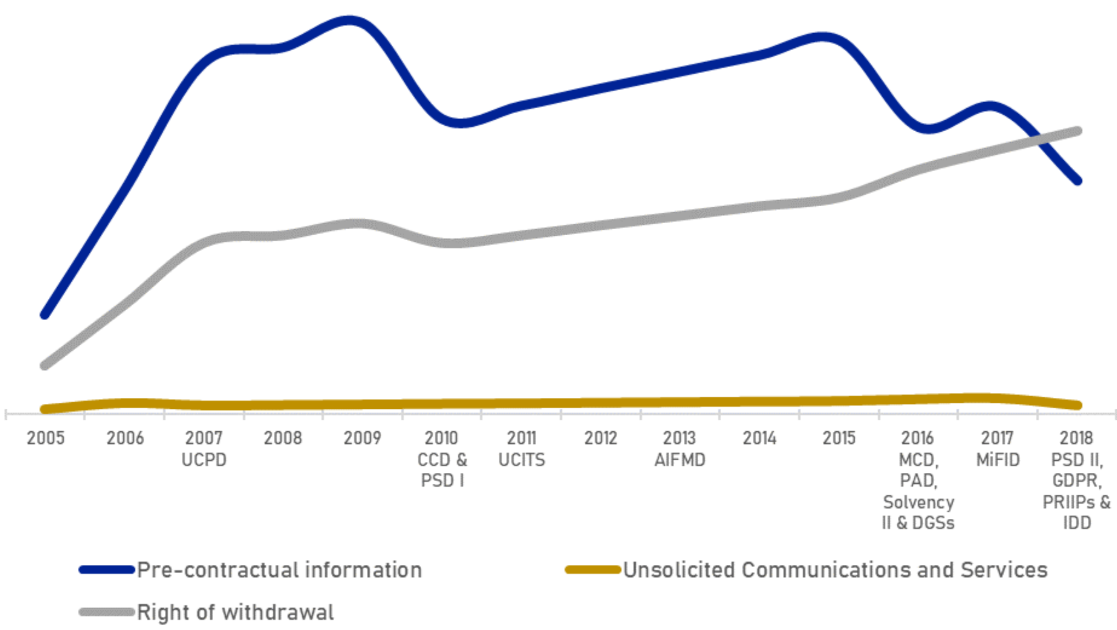
- Their impact on consumer detriment differs. The provision on pre-contractual information is the one expected to be able to address the highest percentage of problems faced by consumers, while the provision banning unsolicited communications and services is only effective in addressing a much smaller share of problems[378];

[376] This refers to the difference between consumers' personal detriment in the scenario with the DMFSD and consumer detriment in a scenario without the DMFSD (or similar legislation).
[377] The Solvency II Directive provides the right of cancelation for life insurance contracts; however the coherence analysis shows that right of withdrawal in the DFMSD is more stringent and provides wider consumer protection.
[378] This assessment was done based on the description of problems leading to consumer detriment provided by CIVIC(2017) and LE Europe (2019) considering the effectiveness of each provision in addressing those problems. The assessment estimated that only 16.5%, 6% and 2.5% of the reduction in the consumer detriment experienced after the implementation of the DMFSD (when compared to the baseline) could have

- The level of compliance of financial providers with each provision also differs (estimated to be higher for the provision on unsolicited services and communications and the lowest for pre-contractual information);
- The estimated effects on the practices of financial providers that can be attributed to each key provision of the DMFSD (assessed considering the national legislation and existing practices at the baseline and the overlaps with horizontal and product-specific legislation) differ.

As can be seen in Figure 23, until 2018 the provision with the highest annual benefits was the one on pre-contractual information, followed by the one the right of withdrawal. The provision on unsolicited services and communication is estimated to have had a very small impact on the consumer detriment (as the share of problems that it can address is very small and the e-privacy directive already covered unsolicited communications and then later in 2007 the UCPD amended the DMFSD Article 9 on unsolicited services). In 2018, the provision on the right of withdrawal became the one bringing the highest benefits (54% of the total) as product-specific legislation introduced in that year (IDD and PRIIPs) reduced the rate of benefits that could be attributed to the DMFSD provision on pre-contractual information. Overall, in the 2004-2018 period, the provision on pre-contractual information represents around 61% of the reduction in consumers' financial detriment, while the right of withdrawal and the ban on unsolicited communications and services represent 37% and 2%, respectively.

Figure 23. Evolution of the benefits of DMFSD (i.e., reduction of consumer personal detriment) per key provision[379]



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

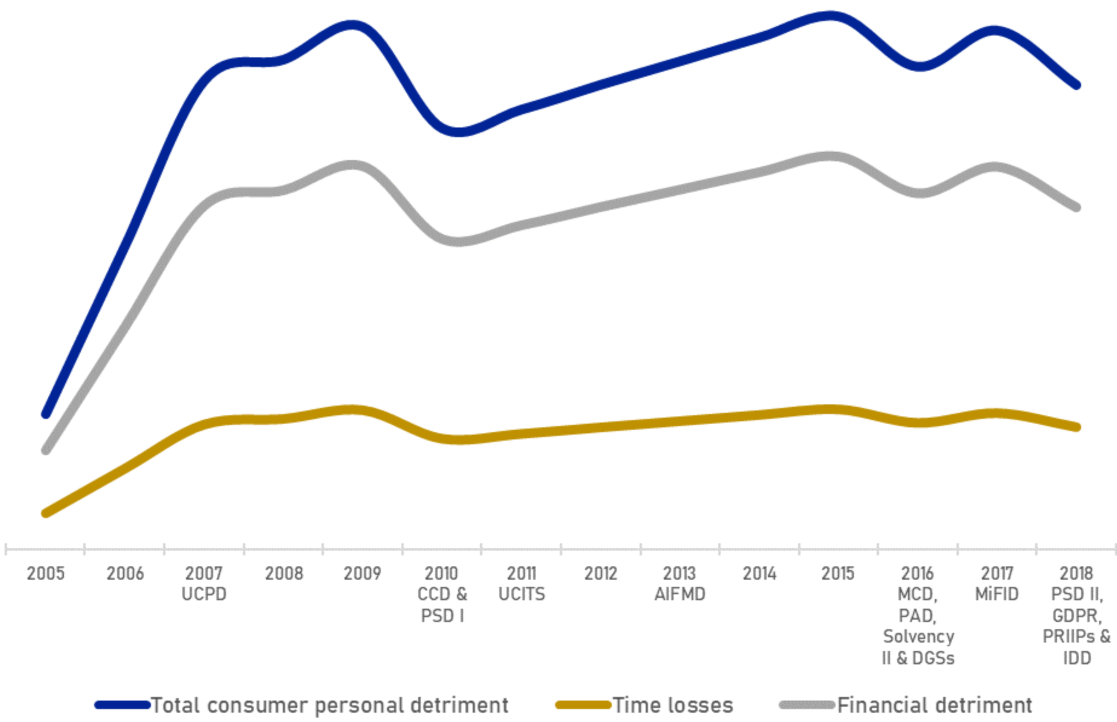
As shown in Figure 24, the total reduction in consumer detriment increased until 2010 as countries implemented the Directive (please note that effective transposition for the

been due to the provision of pre-contractual information, the right of withdrawal and ban on unsolicited communications and services, respectively. The remainder 75% of the problems are not within the reach of these measures.

[379] This graph has no vertical axis because it shows a trend that is common to the two scenarios analysed in this evaluation (i.e., low demand and high demand). In Annex 7 (i.e., the quantification annex) graphs with the vertical axis are provided for the low demand scenario and the high demand scenario.

Directive took place between late 2004 and 2007) and the demand for financial services increased. In 2010, with the implementation of the CCD and PSD I, the benefits attributable to DMSFD reduced. However, the increase in demand of products only covered by DMFSD led to an increase of benefits from 2011 until 2016, when the MCD and Solvency II were implemented. Afterwards, the benefits increased again as a result of increases in the demand of financial services still covered by the DMFSD to some extent (as opposed to product-specific and horizontal legislation). In 2018, with the implementation of the PRIPPs and IDD the total benefits of the DMFSD reduced again significantly.

Figure 24. Evolution of the reduction of consumer detriment, 2005-2018[380]

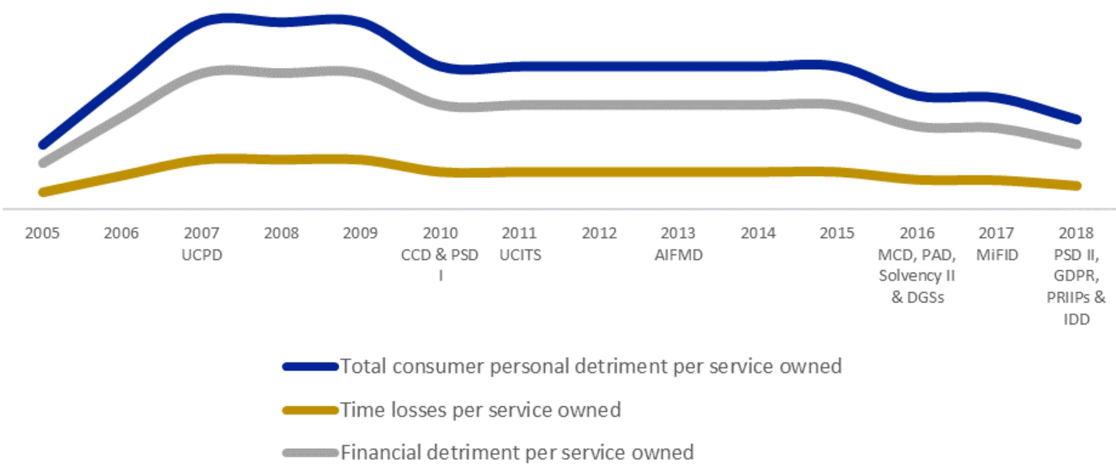


Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

The reduction in the yearly consumer detriment by service/product owned has increased in the period 2004-2007 (as the DMFSD was being transposed by the various Member States) after which it remained stable until 2010 when it decreased (due to the CCD and PSD). After 2010, it stabilised again until 2016 (see Figure 25) when it dropped significantly following the introduction of legislation that overlaps to some extent with the DMFSD (i.e., the MCD and Solvency II) and which therefore absorbed part of the impact of the DMFSD on consumer detriment. Between 2016 and 2018, the yearly consumer detriment by service/product owned steadily decreased.

[380] This graph has no vertical axis because it shows a trend that is common to the two scenarios analysed in this evaluation (i.e., low demand and high demand). In Annex 7 (i.e., the quantification annex) graphs with the vertical axis are provided for low demand scenario and high demand scenario.

Figure 25. Evolution of the yearly reduction of consumer detriment, by service/product owned in 2005-2018[381]



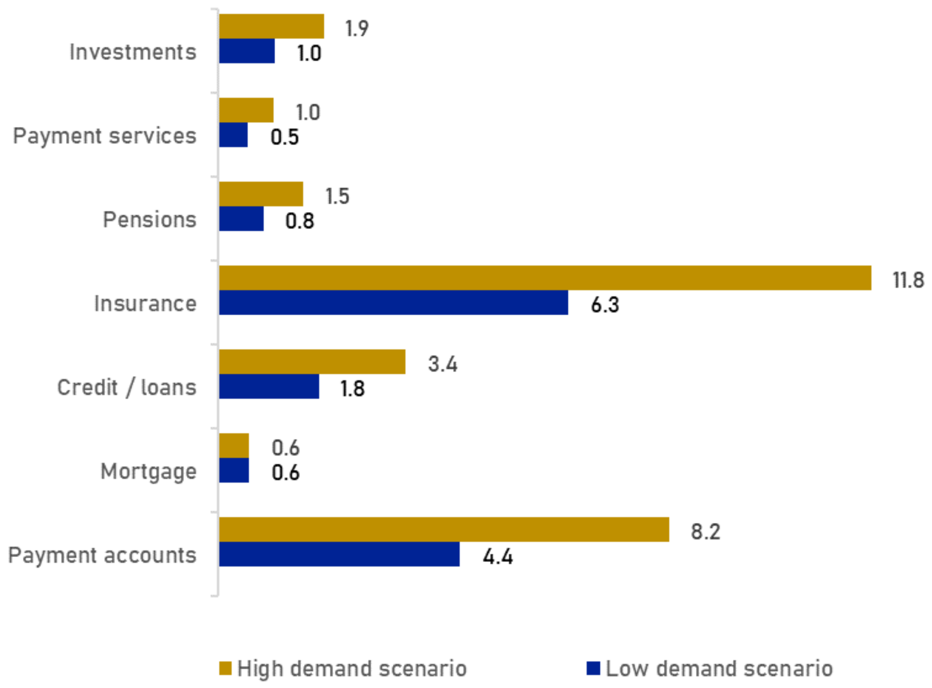
Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

Conservative estimates suggest that around 15-28 million EU consumers have benefited[382] from key DMFSD provisions since its transposition in 2004, chiefly in the context of payment accounts, insurance and - to a lesser extent - pensions (see Figure 26).

[381] This graph has no vertical axis because it shows a trend that is common to the two scenarios analysed in this evaluation (i.e., low demand and high demand). In Annex 7 (i.e., the quantification annex) graphs with the vertical axis are provided for low demand scenario and high demand scenario.

[382] Defined as consumers that experienced a decrease in their consumer detriment due to the introduction of the DFMSD. This was calculated through the following steps: (1) calculate the percentage of individuals that own at least one financial service purchased using a distance mean of communication, (2) multiply this by the percentage of problems per financial service at the baseline addressed by each provision, (3) multiply this per rate of attribution to the directive, and , finally, (4) multiply this by the total population covered by national transposition of the DMFSD.

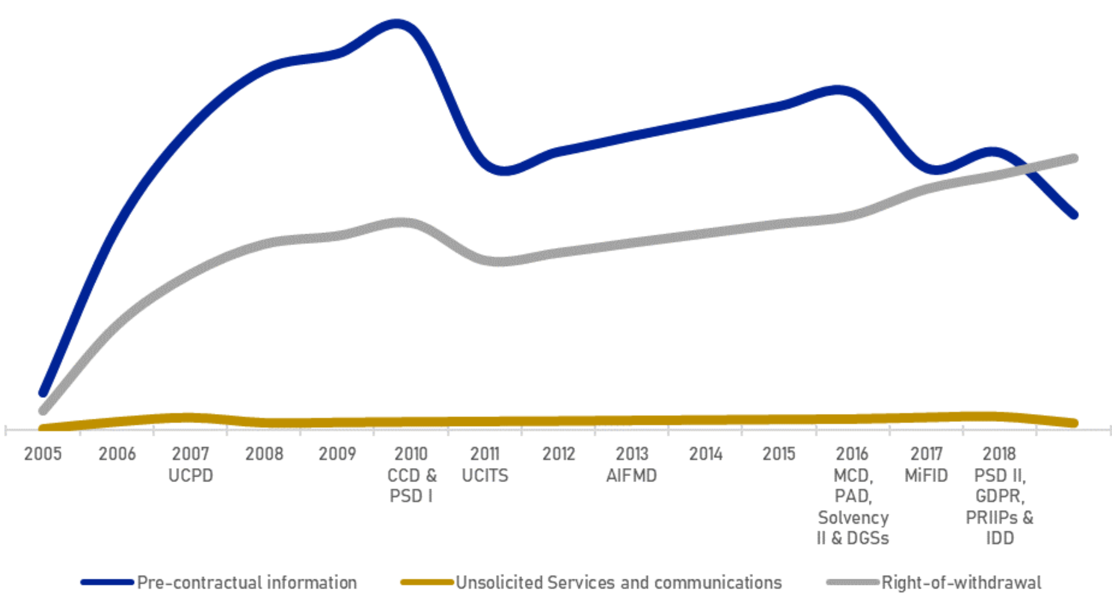
Figure 26. EU population that benefitted from the DMFSD, by type of financial product owned (million)



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

In line with the evolution of the benefits attributable to the DMFSD, since 2004 a significant part (58%) of those consumers benefited from the pre-contractual information provision, while 40% experienced a reduction in their consumer detriment due to the provision on the right of withdrawal (see Figure 27). The evolution of the number of consumers benefitting from each provision since 2004 is therefore explained by two opposite forces: the increase in demand for financial services sold using distance means of communication (upward force), and the introduction of EU legislation that reduced the impact of the Directive (downward force).

Figure 27. EU population that benefitted from each key DMFSD provision in the period 2004-2018 (million)[383]



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

4.3.2 EQ8 Are the costs of the Directive proportionate to the benefits generated?

Main findings

The benefits of the DMFSD to consumers appear to be proportionate to its costs, according to the economic model developed and the stakeholders consulted. They have remained relatively stable throughout the time due to two opposite forces. The constant and significant increase in purchases of financial services at distance (upward force) and the introduction of other EU horizontal and product-legislation that significantly overlaps with the DMFSD (downward force).

Currently, the key provision with a higher cost-benefit ratio is the right of withdrawal. Until 2016, the provision with the highest net benefit was the pre-contractual information. Since then, the net benefits of this provision have dropped considerably, following the introduction of overlapping product-specific legislation.

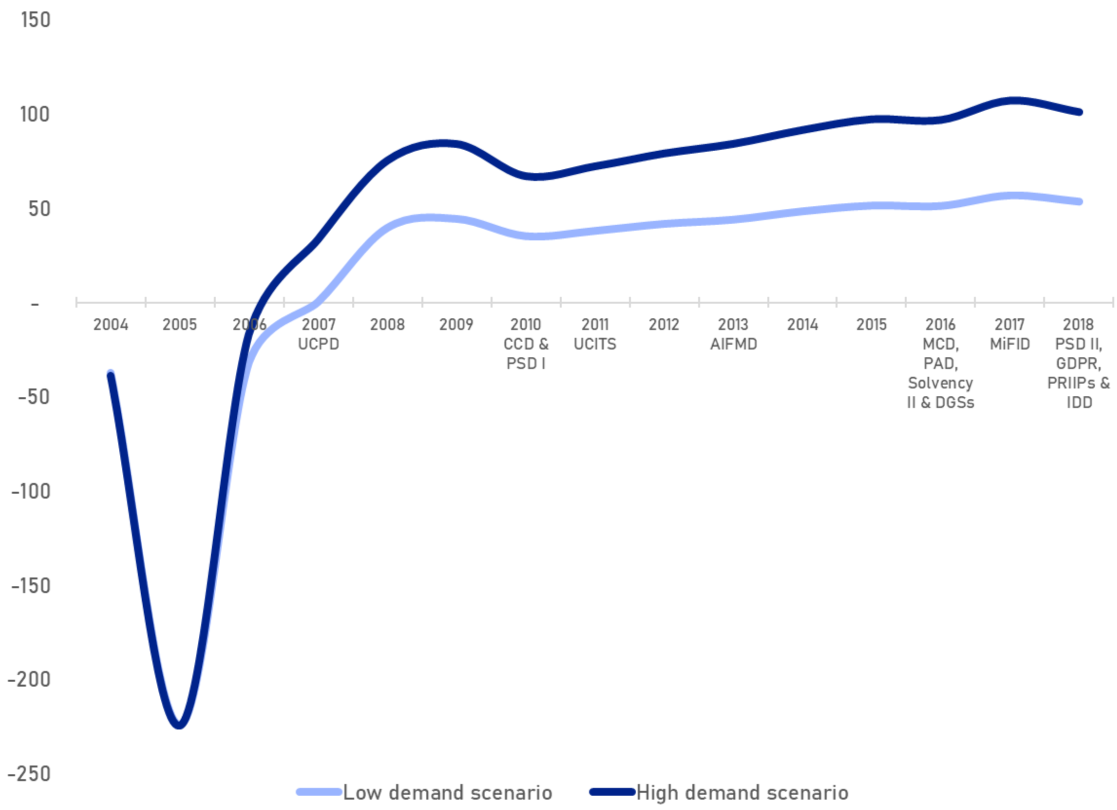
The estimated net benefits of the DMFSD (i.e., the difference between the benefits and costs described in the previous section) are about EUR 69–427 million (present value), while the cost-benefit ratio is between 1.1 and 1.5. As shown in Figure 28, the net benefit of the DMFSD has been positive (with the exception of the years 2004-2007 when countries transposed the Directive and financial providers and public administrators incurred on one-off costs to adjust to the new requirements), indicating that in every year since 2007 the benefits have outweighed the costs.

Overall, the trend of net benefits has been positive due to the increase in the demand of financial services using distance means of communication. However, in 2010, 2016

[383] This graph has no vertical axis because it shows a trend that is common to the two scenarios analysed in this evaluation (i.e., low demand and high demand). In Annex 7 (i.e., the quantification annex) graphs with the vertical axis are provided for low demand scenario and high demand scenario.

and 2018 the net benefits dropped 20%, 1% and 6% respectively due to the introduction of other legislation (i.e., the CCD and PSD I in 2010, the MCD and Solvency II in 2016, and the PSD II, IDD and PRIIPs in 2018)[384,385].

Figure 28. Overview of net benefits to costs attributable to the DMFSD (2004-2018)



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

The size and evolution of the net benefits (i.e., benefits minus costs) per key provision of the Directive vary (see Figure 29), as their benefits and costs vary as well (as presented in the section above).

Until 2018, the provision with the highest net benefit was the pre-contractual information (even after dropping in 2010 due to the introduction of the CCD and PSD and in 2016 due to the introduction of MCD and Solvency II). In 2018, the net benefits of this provision dropped, following the introduction of overlapping product-specific legislation in that year on insurances (PRIIPs and IDD). In 2018, this provision brought net benefits of about EUR 24-45 million and was responsible for about 45% of the overall net benefits of the DMFSD in that year.

The net benefits of the right of withdrawal have grown steadily since the introduction of the DMFSD, as the increase in demand compensated for the reduction in the attribution of benefits to this DMFSD provision after the implementation of the CCD in 2010 and of the PSD II in 2018. In 2018, this provision brought net benefits of about EUR 29-55

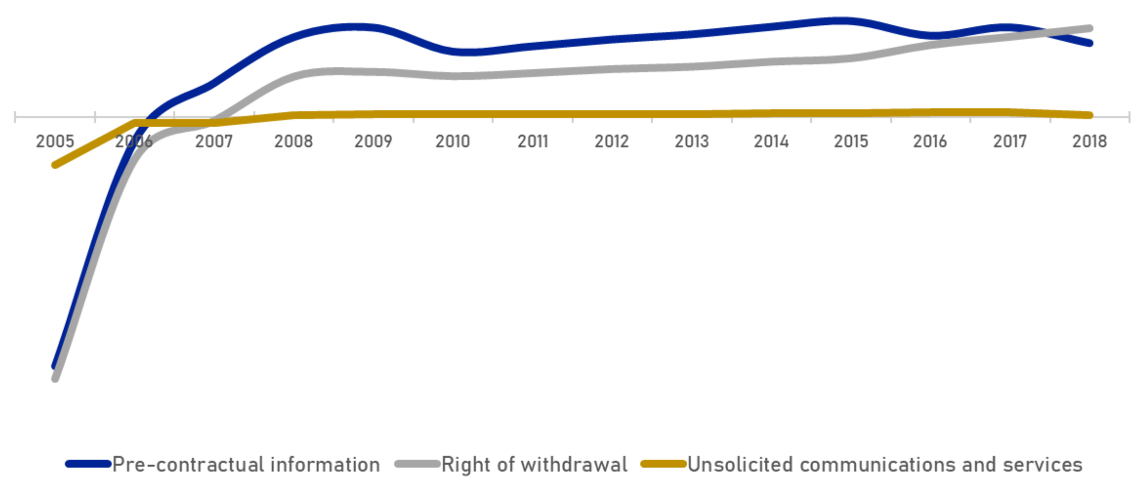
384 Both costs and benefits attributed to the Directive reduced, although the benefits reduced more than the costs.

385 The increase in 2017 was due to an increase in demand; the decrease in 2018 was due to the introduction of legislation.

million and was responsible for about 54.5% of the overall net benefits of the DMFSD in that year.

The ban on unsolicited services and communications overlaps considerably with horizontal legislation transposed in 2003, 2007 and 2018, thus the benefits of the DMFSD in this respect are and were always low. However, as this requirement does not impose significant recurring costs[386], its net annual benefits are still positive. In 2018, this provision is responsible for about 1% of the overall net benefits of the DMFSD.

Figure 29. Overview of the net benefits per key provision of the DMFSD (EUR million, 2018 prices)[387]



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

While the economic welfare of society is higher due to the introduction of the Directive, the distribution of the effects among stakeholders is not even nor straightforward. Although financial providers bear the costs initially, they subsequently pass those costs on to consumers by increasing prices (which could have reduced demand although there is no evidence of that). Furthermore, as mentioned earlier, a part of the increase in the demand of financial services sold through distance means of communication experienced in the period 2004-2018 might have been due to the above-mentioned increase in consumer protection, and so DMFSD may have led to an increase of the surplus of the financial providers (this effect was not quantified due to lack of reliable evidence on the size of this effect). Consequently, the distribution of the overall net benefits (present value) of the DMFSD per stakeholder group are as follows:

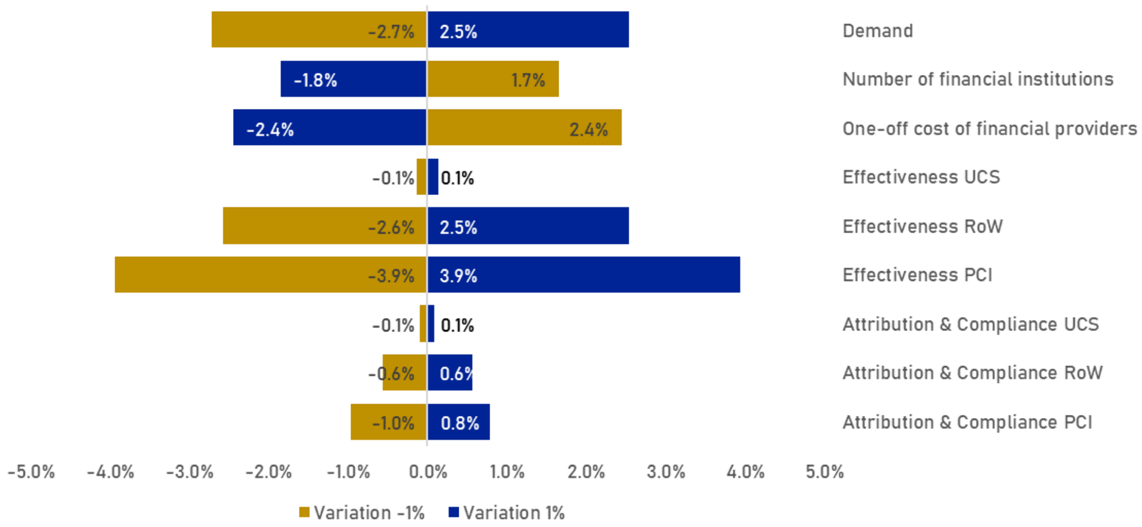
- Public administrators: around EUR -25 million*;*
- Financial providers: around EUR -321 million (assuming that they pass on all their recurrent costs).
- Consumers: between EUR 415 million and EUR 773 (assuming financial providers pass on all their recurrent costs).

The analysis of sensitivity of the net benefits to variations in (1) the assumed rates of attribution and effectiveness (share of problems addressed) of the three key provisions, (2) the demand, (3) the number of financial institutions and (4) one-off costs of financial providers, shows a high degree of sensitivity of the model to these parameters and

[386] As indicated by the majority of industry stakeholders.
[387] This graph has no vertical axis because it shows a trend that is common to the two scenarios analysed in this evaluation (i.e., low demand and high demand). In Annex 7 (i.e., the quantification annex) graphs with the vertical axis are provided for low demand scenario and high demand scenario.

therefore its results should be read with caution. Figure 30 presents the variation of the net benefits of the DMFSD to variations of +/-1% in each of those parameters.

Figure 30. Result of sensitivity analysis



Source: ICF (2019) elaboration of existing data and assumptions (see Annex 7).

Nevertheless, the results of the model are in line with the opinions of numerous stakeholders[388] on the extent to which the costs and benefits can be considered proportionate. Consumer stakeholders, industry stakeholders and national authorities all agree that the benefits of the DMFSD are equal to or higher than its overall costs (although industry stakeholders pointed out that this is not the case from the perspective of financial providers). Still, several industry stakeholders noted that the introduction of EU legislation that overlaps with the DMFSD substantially reduced its efficiency and created legal uncertainty (chiefly related to pre-contractual information requirements) that is costly for financial providers (this evaluation considered that the legal uncertainty caused by the introduction of other EU legislation cannot be ascribed to the DMFSD, thus costs related to this uncertainty were not considered).

4.3.3 EQ9. Are there opportunities to simplify the legislation or reduce unnecessary/disproportionate costs and burden on some stakeholders without undermining the effectiveness of the Directive?

Main findings

Data gathered from stakeholders and studies indicates that there is some scope for simplification and burden reduction. This includes streamlining the EU legal framework for financial services and addressing aspects related to the process, means and format through which information is provided and presented to the consumers.

A considerable share of industry stakeholders, some national authorities and one consumer association suggested that streamlining the EU legal framework for financial services could lessen the legal uncertainty caused by the overlapping and sometimes inconsistent EU legislation (horizontal and product-specific) and significantly reduce its

[388] A significant number of stakeholders (around 40%) were not able to assess whether the benefits of the DMFSD outweigh its costs.

burden on financial providers.[389] However, opinions were divided among stakeholders on how this harmonisation should be achieved:

- Three national authorities and 5 consumer associations recommended that requirements legislated by horizontal or product-specific legislation should be removed from the DMFSD[390]. However, this could negatively impact consumer protection for several reasons. Firstly, some requirements are not equally covered by all product-specific legislation (e.g. right of withdrawal, information disclosure requirements, see Section 4.4). Secondly, not all current products/services are covered by product-specific legislation. Finally, there could be a legal loophole for future services/products. This suggestion must therefore be considered with care and only for requirements that are fully legislated by horizontal legislation. This evaluation found that the only DMFSD requirement that could qualify for removal from the Directive without undermining its effectiveness is the ban on unsolicited communications (which is already extensively legislated by the EPD, ECD and GDPR).
- Two business associations, one national authority and one consumer authority suggested that action should be taken to improve legal certainty about which legislation should prevail in case of overlaps, duplications and inconsistencies. They propose that the DMFSD should include statements clearly indicating when its requirements apply and when the requirements of other EU legislation apply instead.

The LE Europe study (2019) highlights that one aspect that can lead to consumer detriment when not properly implemented is the requirement that pre-contractual information be provided in a 'way appropriate to the means of distance communication used' (Article 3(2))[391]. This is in line with the opinions of consumers to the OPC as more than 90% indicated that information should be presented in a way that is adapted to the channel. The same study (2019) suggests that this should be clarified by providing guidance to financial providers on how to comply with this requirement, or by specifying within the DMFSD exactly how this should be done.

Some stakeholders from the industry and consumer associations suggested that the provision of pre-contractual information should be simplified. These stakeholders argued that providing too much information to consumers may lead to confusion and/or reduce their willingness to properly read it. This reflects the findings of several studies (see Section 4.1.1) that suggested that receiving too much information could be detrimental to consumers. In addition, financial providers indicated that the information requirements are costly (particularly when the contract is negotiated over the phone) or difficult to implement while providing a truly digital and seamless customer journey (in particular when smartphones are used). As evidence points to benefits for both consumers and providers, the evaluation considers that simplifying the pre-contractual information could reduce the burden for stakeholders. However, lessons from behavioural analysis should be taken into account to determine what information should be provided to consumers, and how it should be provided, in order to improve their decision-making processes and reduce their consumer detriment.

Indeed, stakeholders suggested that better streamlining of information throughout the customer journey can benefit consumers by limiting information overload, improving information readability and usefulness, contributing to improved consumer experience and, thereby allowing them to make better decisions. This is in line with the suggestions

[389] A minority of business associations mentioned that it would be better not to change the legislation framework as it would impose compliance costs.

[390] This was suggested in several position papers submitted in the context of the OPC, including: the ASF, Association of Private Bausparkassen eV. Federal office Landesbausparkassen, consumer association Germany, EACB, ESBG, Eurofinas, Crédit Agricole Consumer Finance. EFBS, Insurance Europe, EFAMA.

[391] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.

of the LE Europe (2019)[392] study to update the DMFSD. This study[393] shows that the way in which information is provided to consumers can significantly influence their decision-making process and impact consumer detriment[394]. Consequently, the study recommends that the DMFSD should be adjusted by: 1) requiring that for each type of service/product: '*a specific set of information is provided prominently, in a clear format and at the start of the pre-contractual stage'*; 2) stating that if the provider suggests several alternative services/products, they should be '*clearly presented side-by-side highlighting the differences between them'*; and 3) banning pre-ticked boxes, much like the CRD[395]. In the same vein, the EBA on its position paper on the DMFSD recommends:

- *"information should be presented in plain and intelligible language and in a readable font size, which should easily adapt to work on any kind of device"* (ideally, consumers should have the option to increase the default font size)
- information should be available in at least one of the official language(s) of the country where they are marketing the service, unless the consumer agrees to use another language.
- Information should be provided in "short and direct sentences, key words, boldface, bullet points, comparative tables or other such features so as to highlight relevant information".
- "Legal information should be provided in clear and understandable language and technical jargon should be avoided. When that is not avoidable, "a glossary for reference should be available in a visible place."

The answers of consumers to the OPC are also in line with these suggestions as 95% that the information must be presented in a format that enables them to compare it with other products and 90% of respondents consider it important to have information presented prominently and immediately.

According to a few stakeholders, providing more information on existing redress mechanisms could reduce the burden on consumers (e.g. costs incurred when trying to find relevant information on those mechanisms).

To strike a better balance between costs and benefits, industry stakeholders suggested widening the scope of 'durable medium' in the DMFSD to include electronic means[396]. According to them this would reduce their recurrent costs for providers while facilitating consumer access to relevant information. This suggestion raises some concerns about consumer protection, however, as some electronic means may not ensure that the consumer can store information so that it remains accessible for future reference[397].

Finally, consumer stakeholders recommended that the DMFSD should require financial providers to inform consumers about the anniversary date of the contract well in advance.

Simplifying the DMFSD provisions could negatively affect consumer protection. In that respect, some consumer associations and national authorities urged caution and believe that any refinement or simplification of the Directive ought to ensure that its intended objectives and benefits are not undermined in the process. Some industry stakeholders also highlighted that simplifying the Directive will impose one-off costs on financial

[392] LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services.
[393] In line with the findings of other studies, such as the Danish Competition and Consumer Authority (2019). Improving the effectiveness of terms and conditions in online trade in Denmark.
[394] As shown in Section 4.1**Error! Reference source not found.**, these findings are corroborated by other s tudies.
[395] This is also recommended by BEUC.
[396] About half of the other stakeholders surveyed believed that the DMFSD should be adjusted in order to face the challenges posed by technological developments, while the other half was of the opinion that the DMFSD in its current format is sufficiently flexible and technologically neutral to adapt to future developments.
[397] As required by the Directive.

service providers (as they will have to adjust to the new requirements) and that these should be taken into account when considering changing the DMSFD.

4.4 Coherence

The coherence section analyses to the internal coherence of the DMFSD and the coherence of the Directive with EU and national horizontal and product-specific legislation (under the scope of the evaluation).

4.4.1 EQ10. To what extent have the elements of the DMFSD worked together and between themselves? What is the level of clarity of the Directive?

Main findings

The assessment found that while the DMFSD provisions work well together and between themselves, there is a degree of incoherence with the Directive's general objectives, since the objectives are very broad and the provisions only allow for these to be met only to a limited degree.

There is some space for improvements regarding clarity of the Directive, mainly regarding the concepts of "distance contract", "durable medium" and "good time".

Clarity of the DMFSD

National authorities and industry stakeholders stated that certain definitions and concepts of the DMFSD require further clarification.[398]

Respondents to the OPC observed that that the meaning of 'fully completed performance' under Article 6.2(c) needs further clarification to avoid legal uncertainty[399,400]. One survey respondent also mentioned the need to clarify when a contract shall be regarded as 'concluded at the consumer's request' for the purpose of Article 5(2) of the DMFSD.

There have been some requests for preliminary rulings at the CJEU on the definition of 'distance contract' under Article 2(a) of the DMFSD, as well as on the meaning and scope of Articles 5(1) on the concept of "good time" and "durable medium". However, none of these cases had been decided at the time of writing this report. See Section 3.3.

In a similar vein, while the DMFSD states that the pre-contractual information shall be provided 'in good time before the consumer is bound by any distance contract or offer' (Article 3), it does not define what 'in good time' means. While not sufficiently clear, this provision is very similar to the provisions contained in other EU product-specific rules (i.e. CCD, MCD, IDD, PSD II, Payment Accounts Directive)[401]. Some EU and national authorities indicated that this should be better defined.[402]

There is no further evidence of a lack of clarity or inconsistencies among the different provisions of the DMFSD.

Internal coherence

This section analyses the internal coherence of the different elements legislated by the DMFSD.

The study shows that the internal coherence of the DMFSD is high, with no inconsistencies identified among the different provisions of the DMFSD. A degree of

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398 There is no evidence of disagreements as no stakeholder indicated that they considered the definitions and concepts clear.
399 Insurance Europe.
400 Case C-143/18 – Romano. See section 3.3 for more details.
401 Only one survey respondent highlighted the application of this term as a controversial aspect in the implementation of the DMFSD. None of the OPC respondents found this term controversial and it has not been the subject of any court proceedings at national level or before the CJEU.
402 See EBA Opinion on disclosure to consumers buying financial services through digital channels, 2019.

coherence mostly stems from the mismatch between broad objectives and the overall ability of the Directive's provisions to achieve these.

The DMFSD is a horizontal Directive that covers distance contracts[403] between a consumer and a supplier on financial services (i.e. banking, credit, insurance, pension, investments and payment services). The objective of the Directive is to consolidate the single market of financial services while attaining a high level of consumer protection. Despite its goal to bring together Member States' legal frameworks in the areas covered by the Directive, the DMFSD is a full harmonisation Directive unless it specifically indicates where Member States could go beyond. (Recital 13 of the DMFSD).

The different provisions on pre contractual information requirements Article 4(2), right of withdrawal (Article 6 (1) and 6 (3)), on unsolicited services and communications (Articles 10 and 11), and Sanctions and redress (Article 12, 13 and 14) are not at odds with one another, as the evaluation – including the stakeholder consultations – found no instances of these being internally incoherent.

However, while the provisions work well together and between themselves, there is a degree of incoherence with the Directive's general objectives. The objectives are broad and the limited number and scope of the provisions only allow for these to be able to be met to a limited degree (see section 4.2.1. on effectiveness of the DMFSD meeting its objectives). The incoherence therefore stems from the mismatch between objectives and provisions and not the provisions themselves.

4.4.2 EQ11. To what extent have there been synergies and/or overlaps with EU horizontal legislation?

Main findings

Overall, the evaluation found that the key elements of the DMFSD (provisions of pre-contractual information, right of withdrawal, and unsolicited services and communications) are coherent with the relevant provisions contained in other EU horizontal legislation.

This section examines the interplay between the DMFSD and horizontal EU legislation including:

- Unfair Commercial Practices Directive (2005/29/EC) (UCPD)[404];
- Unfair Contract Terms Directive (93/13/EEC) (UCTD)[405];
- General Data Protection Regulation (EU 2016/679) (GDPR)[406];
- Privacy and Electronic Communications Directive (2002/58/EC) (EPD)[407];

[403] Distance contracts are understood as those not involving the simultaneous presence of the supplier and the consumer.
[404] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive, UCPD) (text with EEA relevance).
[405] Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.
[406] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (text with EEA relevance).
[407] Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

- Electronic commerce Directive (2000/31/EC) (ECD)[408];
- Geo-Blocking Regulation (EU 2018/302) [409];
- Consumer Rights Directive (2011/83/EU) (CRD)[410].

While all of the legal instruments mentioned above (except for the Geo-Blocking Regulation and the CRD, which do not apply to financial services) are relevant to contracts falling under the scope of the DMFSD, they are not specific to financial services and thus their scope differs from that of the DMFSD. In terms of objectives, the UCPD, UCTD and ECD have similar objectives to the DMFSD (i.e. contributing to the proper functioning of the internal market) while the GDPR and EPD aim to harmonise Member States' legislation on data protection. Despite the fact that the Geo-Blocking Regulation[411] and the CRD do not apply to consumer financial services, their inclusion in the analysis is key to understanding how the DMFSD fits into the general EU consumer protection regime (see Annex 8 for an analysis of the scope, objectives and definitions of the different EU horizontal laws).

Overall, the DMFSD is coherent with horizontal EU legislation. The evaluation found that the key elements of the DMFSD (provisions of pre-contractual information, right of withdrawal, and unsolicited services and communications) are coherent with the relevant provisions contained in other EU horizontal legislation. In fact, most of the OPC respondents found the DMFSD to be coherent with horizontal EU legislation. In particular, around 70% of the respondents thought that the DMFSD is coherent with the UCPD and UTCD, 61% believed that the DMFSD is coherent with the GDPR and about half of the respondents were of the opinion that the DMFSD is coherent with the EPD and ECD. On the other hand, about half of the stakeholders consulted through the OPC did not know whether the Geo-blocking Regulation is coherent with the DMFSD.

Pre-contractual information

In general, the DMFSD complements other horizontal EU legislation in respect of the obligation to provide pre-contractual information.

Overall, there are clear synergies between the UCPD and the DMFSD. While the UCPD does not deal specifically with pre-contractual information, it defines material information that shall be provided to consumers in the broader context of commercial practices. In this respect, Annex II to the UCPD expressly refers to the content of Articles 3 and 4 of the DMFSD as examples of material information whose omission may constitute a misleading commercial practice.

The GDPR complements the content of the DMFSD. While Article 3 DMFSD makes no reference to the provision of information on the collection and processing of personal data, Articles 12, 13 and 14 of the GDPR have added additional information disclosure requirements by establishing the transparency principle and the obligation to provide information on the collection and processing of personal data when personal data has or has not been obtained directly from the data subject. The GDPR obliges the data controller to provide information to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language. With the aim of providing a

[408] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (E-Commerce Directive, ECD).
[409] Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (text with EEA relevance).
[410] Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (text with EEA relevance).
[411] The Geo-blocking Regulation applies only with regard to except for the provisions on non-discrimination in payments

general framework, the GDPR lays down the above-mentioned conditions without prescribing a specific format on how the information is to be communicated to the data subject. While no inconsistencies were found between the DMFSD and GDPR in terms of the protection of personal data, the interaction between the different provisions in both legal instruments could be better clarified, as the current text of the DMFSD only makes reference to data protection legislation in Recital 26 by stating that the Directive applies 'without prejudice to the particular safeguards available to consumers under Community legislation concerning the protection of personal data and privacy'.

There is a certain degree of overlap between the DMFSD and the ECD. In line with the DMFSD, Article 5 ECD legislates the provision of information on the identity, geographical address and all details of the service provider, public registers and supervisory authorities, requirements for regulated professions and costs. However, unlike the DMFSD, the ECD does not cover voice telephone communications and only requires the information to be provided in a way that allows the recipient to store and reproduce it (the DMFSD requires the pre-contractual information to be provided in paper or any other durable medium).

There is no evidence of either inconsistencies or overlaps in respect of information disclosure between the DMFSD and the UCTD, EPD and the Geo-blocking Regulation, as none of these legal instruments contain any requirements on the provision of pre-contractual information[412].

The evaluation also found that the type of information to be disclosed under the DMFSD (but not the format in which it has to be disclosed) is in line with the pre-contractual information requirements established under the CRD (which does not apply to financial services). Article 6 of the CRD — on pre-contractual information provision in distance contracts — contains equivalent pre-contractual information requirements to those set forth in the DMFSD. However, unlike the DMFSD (Article 4), the CRD has opted for a maximum harmonisation principle as regards information disclosure requirements in distance contracts, Again unlike the DMFSD[413], the CRD lists email among the examples of durable media[414] and makes express reference to the possibility of concluding a contract through electronic means, laying down specific requirements as regards pre-contractual information to be provided in such cases. While the DMFSD has opted for a strictly technology-neutral approach (making no reference to the need to adapt the information provided to the type of means of communication), the CRD includes special rules to accommodate situation where contracts are concluded through means of distance communication which allow limited space or time to display information, such as SMS, telephone call or voice operated digital shopping assistant'[415].

Right of withdrawal

On the right of withdrawal, neither overlaps nor inconsistencies were found between the provisions of the DMFSD and horizontal EU legislation, as none of the EU legal instruments analysed (except for the CRD which however does not apply to financial services) foresee a right of withdrawal.

The evaluation identified some differences between the DMFSD and the CRD. While the timeline to exercise the right of withdrawal under the DMFSD is in line with that of the CRD (both Directives establish a right of withdrawal within a period of 14 days), the

[412] Only 9% of the OPC respondents found the UCTD to be incoherent with the DMFSD. 17% of the OPC respondents found the EPD incoherent with the DMFSD. The majority of the OPC respondents (55%) did not know whether the Geo-blocking Regulation was coherent with the DMFSD.
[413] The DMFSD considers as durable medium: 'floppy discs, CD-ROMs, DVDs and the hard drive of the consumer's computer on which the electronic mail is stored' and expressly excludes internet websites unless they fulfil the criteria contained in the definition of a durable medium.
[414] Recital (23) CRD.
[415] Article 8(4) and Recital (36) CRD. See also recital 41 of draft Directive on better enforcement and modernisation of EU consumer protection rule, which will amend the CRD. Current draft text available at: http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/IMCO/DV/2019/09-25/corrigendum_consumer_protection_rules_EN.pdf

CRD goes further than the DMFSD and provides that where a trader has not provided the consumer with information on the right of withdrawal as required by the pre-contractual information requirements, the withdrawal period expires 12 months from the end of the initial withdrawal period. The DMFSD does not foresee this possibility. The CRD also establishes a shorter timeframe for consumers to receive the sums they have paid and to return the goods in case of withdrawal from contracts (14 days, compared to 30 days under the DMFSD).

Unsolicited communications and services

Even though the provisions of some horizontal EU pieces of legislation overlap with Article 10 DMFSD on unsolicited communications, the resulting framework is coherent, and no significant inconsistencies were identified[416].

Despite the fact that both the EPD and ECD legislate unsolicited communications in a similar way to the DMFSD, the latter only indirectly covers unsolicited commercial communication by email (which is not expressly mentioned in Article 10(2) along with fax and automatic calling machines but may be included in 'other means of distance communication that allow individual communications'). By contrast, the EPD and ECD add further requirements specifically related to unsolicited commercial communication by email[417]. The EPD goes further than the DMFSD, prohibiting the practice of sending emails for the purposes of direct marketing, disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease. Additionally, the EPD states that consumers/subscribers must be given the opportunity to object, easily and free of charge, to electronic communications for direct marketing purposes. For its part, the ECD further reinforces the protection of consumers against unsolicited communications by establishing an obligation for Member States to ensure that service providers respect the opt-out registers in which persons not wishing to receive such commercial communications can register themselves.

The UCPD also complements Article 10 DMFSD, as it prohibits aggressive commercial practices, including persistent and unwanted solicitations by telephone, fax, email or other remote media[418]. Since 'unwanted solicitations' are by definition not underpinned by any consent, this provision of the UCPD is consistent with the DMFSD, which requires the consumer's prior consent to the supplier's use of automated calling systems without human intervention and fax machines to contact them.

There is also a degree of complementarity between the DMFSD and GDPR in respect of unsolicited communications. While the DMFSD allows suppliers to use certain distance communications subject to the consumer's prior consent (or where the consumer has not expressed their manifest objection), it does not provide any definition of what shall be understood by 'consent'. In this context, the GDPR complements the content of the DMFSD by defining consent in the context of personal data processing (Article 4) and by establishing the conditions for giving consent (Article 7). Article 21(2) of the GDPR also states that where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of their personal data for such marketing. The DMFSD unlike the GDPR does not foresee the possibility to withdraw consent for the purposes of marketing communications.

Except for the UCPD and the CRD, none of the horizontal EU laws include provisions on unsolicited services. No overlaps or inconsistencies were therefore identified in this area.

[416] This was also confirmed by the OPC, as the majority of the respondents did not find the DMFSD to be incoherent with any of the EU horizontal laws examined.
[417] Articles 6 and 13 EPD; Article 7 ECD.
[418] Annex I (para. 26) of the UCPD includes among the aggressive commercial practices, which are in all circumstances considered unfair, the making of persistent and unwanted solicitations by telephone, fax, email or other remote media, except in circumstances and to the extent justified under national law to enforce a contractual obligation. This is without prejudice to Article 10 of Directive 97/7/EC and Directives 95/46/EC (2) and 2002/58/EC.

The UCPD modified Article 9 of the DMFSD and added an express reference to the prohibition of inertia selling, specifying that for the purpose of unsolicited services, the absence of a reply does not constitute consent. The new version of Article 9 DMFSD is in line with the prohibition of unsolicited services under the CRD, as the latter also refers to the UCPD for the prohibition of unsolicited supplies and establishes that the absence of a response from the consumer following such an unsolicited supply or provision does not constitute consent. On the other hand, the CRD has gone further than the DMFSD in prohibiting the practice of 'pre-ticking' boxes, as a way to prevent unsolicited services.

New Deal for Consumers[419]

On April 2018 the European Commission adopted the New Deal for Consumers package that aimed at strengthening the enforcement of EU consumer law and reinforcing consumer rights online. The New Deal for Consumers included:

- A proposal for a Directive on better Enforcement and modernization[420];
- A proposal for a Directive on Representative Actions[421]; and
- A communication on the New Deal for Consumers[422]

The Proposal for a Directive on better Enforcement and modernization amends the UCPD, UCTD and CRD[423] in order to better adapt them to market developments and the digital economy. Some of the changes introduced by this proposal have a direct impact on the way the right of withdrawal, information disclosure requirements and the enforcement of consumers' rights are currently regulated by the abovementioned Directives. In particular[424]:

- A new Article 6(a) will be inserted in the CRD providing for additional pre-contractual information requirements for contracts concluded in an online marketplace including: (i) a description of the main parameters determining ranking of the different offers (ii) whether the third party offering the product is a professional trader or an individual (iii) whether consumer rights stemming from EU consumer law apply to the contract and (iv) where the contract is concluded with a trader, which trader is responsible for ensuring consumer rights stemming from EU law;
- The new text of the CRD will also allow traders to use new means of online communication such as webforms or chats instead of e-mails for the provision of pre-contractual information as long as the consumer can keep track of the communication with the trader. It also removes the reference to fax;
- The CRD will no longer require providing a model withdrawal form as part of the information requirements provided on a means of distance communication used for the conclusion of the contract that allows limited space or time for the provision of the information. It will be enough to make available the model of withdrawal form through other means including the trader's website or to include it in the contract confirmation on a durable medium;
- The CRD will now contain an express reference to the GDPR as regards the trader's obligations in respect of the use of the consumer's personal data after the termination of the contract.
- Under the current version of the CRD, consumers lose the right of withdrawal from service contracts that have been fully performed under two

[419] See: https://ec.europa.eu/info/law/law-topic/consumers/review-eu-consumer-law-new-deal-consumers_en.
[420] See: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1523880940100&uri=COM:2018:185:FIN.
[421] See:https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:184:FIN.
[422] See: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1523866913149&uri=COM:2018:183:FIN.
[423] This proposal also amends the Price indication Directive that is not analysed in the context of this evaluation.
[424] See: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0185&from=EN

conditions: (i) the performance has begun with the consumer's prior express consent and (ii) with the acknowledgment that he/she will lose the right of withdrawal once the contract has been fully performed. The proposal removes the reference to this acknowledgment.

- The proposal will also amend the UCPD and will require informing consumers on whether search results in online platforms contain "paid placements and inclusions"[425].
- The UCPD will also include a consumers' right to individual remedies. Thus, consumers will have the right to individual remedies when they are harmed by unfair commercial practices i.e. aggressive marketing.
- The proposal also strengthens the UCPD rules on penalties. It will include a list of common criteria for assessing the gravity of infringements. Member States will be required to consider these criteria when deciding on a penalty. Moreover, for certain types of infringements, Member States will be required to provide in their national law for fines of at least 4% of the infringing trader's turnover in the Member State or Member States concerned.

4.4.3 EQ12. To what extent have there been overlaps, inconsistencies and gaps with EU product-specific legislation?

Main findings

Overall, the DMFSD is in line with product-specific EU legislation in the context of financial products sold at distance. This was confirmed by the legal analysis, the literature review as well as the OPC and the survey responses. There is a significant degree of overlap between the provisions of the DMFSD and other product-specific EU laws. However, the evaluation identified only minor inconsistencies between the DMFSD and product-specific EU legislation, specifically on the right of withdrawal and the provision of pre-contractual information.

Since the adoption of the DMFSD in 2002, new product-specific rules have been introduced for the distribution of financial services. This section analyses the coherence of the DMFSD with product-specific EU legislation in the areas of credit, mortgages, insurance, pensions, payment accounts, payments services and investments sold at distance.

- The EU product-specific laws analysed for the purpose of this evaluation include:
- Consumer Credit Directive (2008/48/EC) (CCD)[426];
- Mortgage Credit Directive (2014/17/EU) (MCD)[427];
- Payment Accounts Directive (2014/92/EU) (PAD)[428];
- Payment Services Directive (2015/2366/EU) (PSD II)[429];

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[425] Note: 'Paid placements' means for instance where third parties pay for higher ranking and 'paid inclusion' where third parties pay to be included in the list of search results.

[426] Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.

[427] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.

[428] 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 (text with EEA relevance).

[429] Directive 2015/2366/EU of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

- Insurance Distribution Directive (2016/97/EC) (IDD)[430];
- Market in Financial Instruments Directive (2014/65/EU) (MiFID II)[431];
- Undertakings for the collective investment in transferable securities Directive (UCITS, 2009/65/EC)[432];
- Alternative investment fund managers Directive (2011/61/EU) (AIFMD)[433];
- Regulation on packaged retail and insurance-based investment products (EU 1286/2014) (PRIIPs)[434];
- Prospectus Regulation (Regulation EU 2017/1129)[435];
- Directive on Investor Compensation Schemes (97/9/EC)[436];
- Directive on Deposit Guarantee Schemes (2014/49/EU) (DGS)[437];
- Regulation on a Pan-European personal pension product (PEPP)[438];
- Solvency II Directive (2009/138/EC)[439].

While the DMFSD is a horizontal piece of legislation covering any service of banking, credit, insurance, personal pension, investment or payment nature sold at distance, the scope of the product-specific EU laws above is reduced to individual financial products and they do not differentiate between distance sales and on-premises contracts. On the other hand, the objectives of the DMFSD are similar to the objectives of other product-specific EU laws in the context of financial services, as they all aim to approximate national laws and contribute to the proper functioning of the internal market. Moreover, similarly to the DMFSD, some of the product-specific EU laws under analysis also have an explicit objective to reinforce consumer protection (i.e. CCD, MCD, MiFID, Prospectus Regulation, Directive on Investor Compensation Schemes and DGS) (see Annex 8 for more analysis of the objectives, scope and definitions of the different product-specific EU laws).

[430] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (text with EEA relevance).
[431] 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 (text with EEA relevance).
[432] Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions (text with EEA relevance).
[433] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (text with EEA relevance).
[434] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (text with EEA relevance).
[435] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (text with EEA relevance).
[436] Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor compensation schemes.
[437] Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (text with EEA relevance).
[438] Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP).
[439] Directive 2009/138/EC of the European parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast).

Overall, the DMFSD is in line with product-specific EU legislation in the context of financial products sold at distance[440]. This was confirmed by the legal analysis, the literature review as well as the OPC and the survey responses. In fact, most survey respondents (69%) believe that the DMFSD is in line and coherent with other relevant legislation at EU level related to financial services. Only a minority of the survey respondents (15%) found the DMFSD to be incoherent with other relevant EU legislation. In the same vein, a majority of OPC respondents (between 71% for the CCD and 45% for the AIMFD) also found the DMFSD to be coherent with EU product-specific legislation[441]. Despite the fact that the DMFSD is generally in line with product-specific EU legislation, there is a significant degree of overlap between the provisions of the DMFSD and other product-specific EU laws[442]. In most cases, product-specific EU legislation is much more detailed than the DMFSD, as the provisions of the various directives and regulations are tailored to the characteristics of the products they include. In fact, only a small minority of the stakeholders consulted believed that existing overlaps are unjustified (ranging between 4% in the area of investments and 16% in the area of credit)[443]. The evaluation also identified some minor inconsistencies between the DMFSD and product-specific EU legislation on the right of withdrawal and the provision of pre-contractual information[444]. In this regard, only a minority of the OPC respondents believed that the DMFSD is somewhat incoherent or very incoherent with EU product-specific legislation. The percentage of OPC respondents who found the DMFSD to be incoherent with product-specific EU legislation ranged from 22% for IDD to 5% for the PAD[445]. Similarly, only between 2-6% of the survey respondents believe that there are inconsistencies between the DMFSD and other relevant EU laws[446]. Figure 31 summarises the findings on the coherence between the DMFSD and product-specific EU legislation (see Annex 8 for more detailed information).

[440] Although the analysis focuses on those provisions that overlap/differ from the provisions contained in the DMFSD for financial products sold at distance, the product-specific EU legislation examined does not only apply to distance contracts but also to 'on-premises' contracts.
[441] 71% for the CCD, 66% for the MCD, 57% for the PAD, 53% for the PSD II, 50% for the IDD, 53.5% for MiFID II, 50% for the UCITS, 48% for PRIIPS, 46% for the Prospectus Regulation, 45% for the AIFMD.
[442] This was confirmed by the legal analysis, the literature review, the OPC and the survey responses. The analysis of the survey responses showed that despite existing overlaps, only a minority of stakeholders found those overlaps unjustified (16% in the area of credit, 4% in the area of investment, 14% in the area of mortgages, 6% in the area of payment accounts, 10% in the area of insurances and 15% in the area of payment services).
[443] The analysis of the survey responses showed that despite existing overlaps, only a minority of stakeholders found those overlaps unjustified (16% in the area of credit, 4% in the area of investment, 14% in the area of mortgages, 6% in the area of payment accounts, 10% in the area of insurances and 15% in the area of payment services).
[444] This was confirmed by the legal analysis, the OPC and the survey responses.
[445] The percentage of OPC respondents who found the DMFSD to be somewhat incoherent or very incoherent with EU product-specific legislation ranged from: 14% for the CCD, 16% MCD, 5% PAD, 22% PSD II, 22% IDD, 14% MiFID II, 10% UCITS, 20% PRIIPS, 12% Prospectus Regulation, 10% AIFMD.
[446] Only 4% of the survey respondents believe that there are inconsistencies between the DMFSD and product-specific legislation in the areas of credit, investment, payment accounts and insurance. With regard to mortgages, only 2% of the survey respondents found inconsistencies. For payment services, 6% of the survey respondents noted inconsistencies.

Figure 31. Summary of findings on coherence

			Pre-contract information	Right of withdrawal	Unsolicited communication and services	Redress
CCD	2010	Overlaps (full, partial, none)	Partial	Partial	□	□
		Inconsistencies / no conflict	None	None	□	□
		More stringent / less stringent	+	-	□	+
MCD	2016	Overlaps (full, partial, none)	Partial	None	□	□
		Inconsistencies / no conflict	None	None	□	□
		More stringent / less stringent	+	-	□	+
PAD	2016	Overlaps (full, partial, none)	Partial	□	□	Partial
		Inconsistencies / no conflict	Partial	□	□	None
		More stringent / less stringent	+	□	□	+
PSD II	2018	Overlaps (full, partial, none)	Partial	None	Partial	Partial
		Inconsistencies / no conflict	Partial	Partial	□	None
		More stringent / less stringent	+	-	□	+
IDD	2018	Overlaps (full, partial, none)	Partial	□	□	Partial
		Inconsistencies / no conflict	Partial	□	□	None
		More stringent / less stringent	+/-	□	□	+
MiFID	2017	Overlaps (full, partial, none)	Partial	□	□	Partial
		Inconsistencies / no conflict	Partial	□	□	None
		More stringent / less stringent	+/-	□	□	+
UCITS	2011	Overlaps (full, partial, none)	Partial	□	□	Partial
		Inconsistencies / no conflict	Partial	□	□	None
		More stringent / less stringent	+/-	□	□	+
AIFMD	2013	Overlaps (full, partial, none)	Partial	□	□	Partial
		Inconsistencies / no conflict	None	□	□	None
		More stringent / less stringent	+/-	□	□	-
Solvency II Directive	2016	Overlaps (full, partial, none)	Partial	Partial	□	Partial
		Inconsistencies / no conflict	Partial	Full	□	□
		More stringent / less stringent	+/-	-	□	+
PRIIPs	2018	Overlaps (full, partial, none)	Partial	□	Partial	Partial
		Inconsistencies / no conflict	Partial	□	□	None
		More stringent / less stringent	+	□	□	-
Prospectus Regulation	2019	Overlaps (full, partial, none)	Partial	None	□	□
		Inconsistencies / no conflict	None	Partial	□	□
		More stringent / less stringent	+/-	-	□	□
Directive on investor compensation schemes	1998	Overlaps (full, partial, none)	Partial	□	□	□
		Inconsistencies / no conflict	Partial	□	□	□
		More stringent / less stringent	-	□	□	□
PEPP	2020	Overlaps (full, partial, none)	Partial	□	□	Partial
		Inconsistencies / no conflict	Partial	□	□	None
		More stringent / less stringent	+	□	□	+
DGS	2020	Overlaps (full, partial, none)	Partial	None	□	Partial
		Inconsistencies / no conflict	Partial	Partial	□	None
		More stringent / less stringent	-	+	□	-

Overlaps	Full	Partial	None	Not applicable □
Inconsistencies	Full	Partial	None	
More/ less stringent	More stringent +	Similar +/-	Less stringent -	

Source: ICF (2019)

In some cases, existing overlaps and inconsistencies between the DMFSD and product-specific EU legislation led to a certain degree of legal uncertainty. As explained in the following paragraphs, some stakeholders suggested that a clarification of the interplay between the DMFSD and product-specific EU legislation could help to reinforce existing synergies and reducing the risk of legal uncertainty.

Pre-contractual information

The evaluation found significant overlap between information disclosure obligations under the DMFSD and product-specific EU legislation in the areas of credit, banking, insurance, mortgages, pensions and investments sold at distance[447].

There is substantial overlap between information disclosure requirements under the DMFSD and all of the product-specific EU legislation analysed for the purpose of this evaluation. However, in most cases, the pre-contractual information requirements in the different product-specific EU rules are simply more detailed than those established under the DMFSD. For example, the pre-contractual information requirements under the CCD[448] and MCD[449] are in line with the disclosure requirements under the DMFSD. Both the CCD and MCD state that the pre-contractual information provided in accordance with these Directives satisfies the information disclosure requirements under the DMFSD, which increases the synergies between these different legal instruments[450]. However, both the CCD and MCD establish additional information requirements adapted to the specificities of consumer credit products and mortgage credit respectively (e.g. information on creditworthiness assessment). Both Directives go further than the DMFSD in the protection of consumers, establishing, among other things, a further requirement to provide consumers with an adequate explanation of the pre-contractual information in order to place consumers in a position that enables them to better assess the proposed credit agreements[451].

In the same vein, the PSD II provides for additional/more detailed pre-contractual information requirements than those contained under the DMFSD[452]. In order to adapt the provision of pre-contractual information to the specificities of distance payment contracts and current trends, the PSD II modified Article 3 of the DMFSD for financial products falling under the scope of both the DMFSD and PSD II by introducing more detailed requirements (Article 39 PSD II). Since the PAD expressly refers to pre-contractual information requirements under the CCD and PSD[453], the type of information to be provided under this Directive also overlaps with the content of Article 3 DMFSD. Nonetheless, the PAD provides for new elements of information disclosure for distance payment account contracts that are not included under the DMFSD, such as information on the most representative services linked to a payment account, and switching services.

Both the he IDD and Solvency II (for life insurance contracts) also establish similar pre-contractual information requirements as those foreseen under the DMFSD and add some additional insurance-specific requirements[454]. For instance, for life insurance, Solvency II[455] requires providing the policy holder with pre-contractual information on underlying assets, means of payment of premiums, means of calculation and distribution of bonus

[447] Despite existing overlaps, only a minority of stakeholders found these overlaps unjustified (16% in the area of credit, 4% in the area of investment, 14% in the area of mortgages, 6% in the area of payment accounts, 10% in the area of insurances and 15% in the area of payment services).
[448] Articles 5,6,7 and Annex II CCD.
[449] Articles 14,15, 16 and Annex II MCD.
[450] A majority of the survey respondents in the field of consumer credit (51%) and a large minority in the field of mortgages (47%) believe that the DMFSD creates synergies with product-specific legislation.
[451] Article 5(6) CCD and Article 16 MCD.
[452] Title III PSD (in particular, Articles 44-58).
[453] Article 4(1) PAD.
[454] Chapter V (Articles 17, 18, 19, 20) and Article 29 IDD and article 186 of the Solvency II Directive.
[455] Article 185 of Solvency II Directive.

and unit-linked policies. In the same vein, the MiFID II, UCITS[456] and AIFMD[457] include most of the pre-contractual information requirements foreseen under the DMFSD and add specific information requirements adapted to the characteristic of the investment products they legislate. For instance, the MiFID II requires financial providers to provide consumers with a description of products and policies on asset protection, conflicts of interest and on execution of orders, in order to better assist them in making their investment decisions. Similarly, the UCITS requires the provision of information on investment objectives, risks/rewards, costs and historical performance, among other things. The AIFMD also requires the provision of pre-contractual information on several aspects, specifically on alternative investment funds, including the use of leverage, delegation arrangements, valuation procedure and pricing methodology, liquidity risk management, any preferential treatment for certain investors, the latest annual report and the procedure and conditions to issue and sell shares[458].

The PRIIPs contains very detailed pre-contractual information requirements that are more detailed than those under the DMFSD[459]. Some of the additional information requirements in the PRIIPs include the provision of information on the types of investors for whom the financial product is intended, the risk and reward profile of the product (which includes a summary risk indicator and the possible maximum loss of invested capital) and appropriate performance scenarios of the product. The PRIIPs goes further than the DMFSD and states that pre-contractual information cannot contain cross-references to marketing material. It also limits the maximum number of printed pages for the pre-contractual information provided.

There is a significant degree of overlap between the DMFSD and the PEPP[460] in the context of the provision of pre-contractual information for personal pension products sold at distance. The pre-contractual information to be provided under the PEPP is very similar to that required under the DMFSD (e.g. on aspects related to the provider, the product, the public register, the supervisory authority, complaint and redress mechanisms, the costs, the law applicable to the contract, the right of withdrawal, etc.). However, the PEPP goes further and sets out more stringent information disclosure requirements. For instance, the PEPP requires information on the past performance of the PEPP saver's investment option, more detailed information on the nature and features of the product (including long-term objectives and the means for achieving them, and description of the type of PEPP saver to whom the PEPP is intended to be marketed), information on PEPP retirement benefits, on PEPP savers' rights, on the conditions to modify investment option, the possible maximum loss of invested capital, conditions for returns to PEPP savers or built-in performance caps, whether the related loss is covered by an investor compensation or guarantee scheme and requirements related to the pay-out phase.

Notwithstanding these overlaps in the provision of pre-contractual information, some of the requirements established under the DMFSD are not covered by several of the product-specific EU rules. For example, in relation to the provision of pre-contractual information in the case of voice telephone communications (Article 3(3) DMFSD), only the IDD, CCD and MCD (which expressly refer to the DMFSD) legislate this aspect. None of the other product-specific rules make reference to the provision of pre-contractual information by voice telephone communications. Additionally, not all of the information listed in Article 3 DMFSD is always required under all product-specific legal instruments. For example, neither the IDD nor MiFiD II contain an obligation to provide information on the existence/absence of a right of withdrawal or on the right of early withdrawal. The Solvency II on the other hand only requires the provision of information on the cooling off period for life insurance contracts and not for non-life insurance contracts.

[456] Articles 78, 79, 80, 81 UCITS. See also Article 63, 64, Chapter IX and Schedule A of Annex I UCITS.
[457] Articles 22 and 23 AIFMD.
[458] Article 23 AIFMD.
[459] Articles 5-18 PRIIPS.
[460] Section I, Article 24 and Articles 26-31 PEPP.

Similarly, neither the MiFiD II nor the UCITS or AIFMD establish an obligation to provide information on redress. The MiFiD II, the AIFMD and the Solvency II do not require information on the public register (where applicable) and supervisory authority to be included in the pre-contractual information provided to consumers. Additionally, unlike the DMFSD, neither the IDD nor Solvency II for instance require to provide information on the existence of compensation schemes or guaranteed deposits.

The evaluation identified only minor inconsistencies between the DMFSD and product-specific EU legislation on the provision of pre-contractual information. None of the product-specific EU rules analysed depart significantly from the requirements established under the DMFSD[461]. As mentioned above, the differences between the different legal instruments chiefly relate to the specific characteristics of the financial products they legislate. Some of the main differences and inconsistencies identified include:

- The possibility to compare different financial services. Unlike the DMFSD, some product-specific EU legislation requires that the pre-contractual information provided to the consumer allows them to easily assess and compare the products offered by the retailers (e.g. MCD, CCD, PAD). For instance, under the MCD, whenever consumers are not granted a right of withdrawal, they have a reflection period of at least seven days after the information has been provided to compare offers, assess the implications of the credit and make an informed decision. Similarly, under the PAD, Member States are required to ensure that consumers have access to at least one website comparing fees for at least the services listed in that Directive.
- Requirement to provide pre-contractual information in a standardised format. Unlike the DMFSD, some of the product-specific legal instruments (i.e. CCD, MCD, IDD, PAD, UCTIS, PRIIPs and PEPP) require the provision of pre-contractual information in standardised information sheets.
- Some of the product-specific EU legal instruments (i.e. MCD, MiFID II and PRIIPs) include more stringent provisions on the possibility to provide the pre-contractual information immediately after the conclusion of the contract. For instance, while the DMFSD allows for the provision of the pre-contractual information immediately after the contract, where the contract has been concluded at the consumer's request using a distance means of communication that does not allow for the provision of pre-contractual information prior to the conclusion of the contract, the MCD does not allow for this possibility and states that the pre-contractual information must always be provided before the conclusion of the contract[462]. In this context, even though the MiFID II allows for the provision of pre-contractual information after the conclusion of the agreement when using a means of distance communication which prevents the prior delivery of the suitability statement[463], it establishes two conditions for doing so: 1) the client has consented to receiving the suitability statement without undue delay after the conclusion of the transaction; 2) that the investment firm has given the client the option of delaying the transaction in order to receive the statement on suitability in advance (the DMFSD only requires that the contract has been concluded at the consumer's request). Like the MiFID II, while Article 13 PRIIPs refers directly to the DMFSD to legislate a situation where a person selling a PRIIP provides the retail investor with the key information document after concluding

[461] The percentage of OPC respondents who found the DMFSD to be somewhat incoherent or very incoherent with EU product-specific legislation ranged from: 14% for the CCD, 16% MCD, 5% PAD, 22% PSD II, 22% IDD, 14% MiFID II, 10% UCITS, 20% PRIIPS, 12% Prospectus Regulation, 10% AIFMD. Only 4% of the survey respondents believe that there are inconsistencies between the DMFSD and product-specific legislation in the areas of credit, investment, payment accounts and insurance. With regard to mortgages, only 2% of the survey respondents found inconsistencies. For payment services, 6% of the survey respondents found inconsistencies between the DMFSD and product-specific legislation.

[462] Articles 14-16 MCD.

[463] Article 25(6) MiFID II.

the transaction, it establishes more restrictive conditions under which the pre-contractual information can be provided without undue delay after concluding the contract. Thus, apart from the conditions established by the DMFSD, the person advising or selling the PRIIP has to inform the retail investor that provision of the key information document is not possible and has to clearly state that the retail investor can delay the transaction in order to receive and read the key information document before concluding the transaction. The retail investor must expressly agree to receiving the key information document without undue delay after conclusion of the transaction (instead of delaying the transaction in order to receive the document in advance).

- In terms of the burden of proof, under the PSD II, contrary to what is foreseen under the DMFSD (Article 15), Member States are required to stipulate that it is for the payment service provider to prove that it has complied with the information requirement (in the DMFSD this is left to the Member States' discretion).
- The possibility to claim damages on the basis of the pre-contractual information provided. Article 11(2) of the PRIIPs allows investors who can demonstrate a financial loss resulting from their reliance on the pre-contractual information (key information document) to claim damages from the manufacturer in accordance with national law. Similarly, the PEPP also allows a PEPP saver who demonstrates loss resulting from reliance on a PEPP KID, to claim damages from the PEPP provider for that loss, in accordance with national law. The DMFSD does not make any express reference to the possibility to claim damages based on the information provided by the supplier.
- Differentiation between advertising stage and pre-contractual phase. While the DMFSD does not make a distinction between these two phases, the CCD, MCD, PRIIPs[464] and PEPP[465] all clearly differentiate between the type of information to be provided in the context of advertisement and the information to be provided in the pre-contractual phase. In this context, both the PRIIPs and the UCITS go a step further and establish that pre-contractual information cannot contain cross-references to marketing material[466].

Given that the DMFSD was enacted in 2002 when digital technologies were not yet very developed, some of its provisions on pre-contractual information duties are outdated compared to more recent product-specific EU legislation. For example, the DMFSD only allows for the provision of pre-contractual information on paper or other durable medium. The preface of the Directive considers the following to be durable media, 'floppy discs, CD-ROMs, DVDs and the hard drive of the consumer's computer on which the electronic mail is stored' and expressly excludes internet websites[467] unless they fulfil the criteria contained in the definition of a durable medium (see Section 3 and Section 4.4.1)[468,469]. Some of the subsequent product-specific EU rules have slightly adapted the provisions on information disclosure to allow for the use of websites to provide pre-contractual information (i.e. PSD II, PAD, IDD, UCITS, Prospectus

[464] Articles 6 and 9 PRIIPs.
[465] Article 26 PEPP.
[466] European Commission, LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services. Available at: https://ec.europa.eu/info/sites/info/files/live_work_travel_in_the_eu/consumers/digitalisation_of_financial_services_-_main_report.pdf
[467] Recital 20 DMFSD.
[468] *See* CJEU, Case C-375/15, *BAWAG PSK Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG v Verein für Konsumenteninformation*. Available at: http://curia.europa.eu/juris/document/document.jsf?text=%2522Directive%2B2002%252F65%252FEC%2522&docid=187125&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=2298695#ctx1
[469] Article 2(f) DMFSD states that a durable medium means any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

Regulation, PRIIPs, DGS, PEPP), thus better reflecting the current use of new technologies. The PEPP, for instance, expressly refers to the possibility of layering the pre-contractual information, where the PEPP KID is provided in an electronic format so that detailed parts of the information can be presented through pop-ups or links to accompanying layers. However, the relevant article also states that, in that case, it has to be possible to print the PEPP KID as a single document[470].

Despite the fact that the DMFSD is generally coherent with other product-specific EU legislation[471], existing overlaps between the DMFSD and product-specific EU requirements on the provision of pre-contractual information and the lack of clear rules on which law prevails where several legal instruments apply to the same situation, have created some degree of legal uncertainty and a risk of information overflow. In fact, about half of the stakeholders who submitted position papers in the context of this evaluation, four survey respondents and several studies[472] have argued that due to existing overlaps on the provision of pre-contractual information, there is a certain degree of legal uncertainty and the information disclosure procedure has become a very burdensome process for both suppliers and consumers. This situation creates a risk of 'information overload' that might be to the detriment of consumers' willingness to read complex disclosure documents and their ability to understand financial products.

The current version of the DMFSD does not contain any rule on conflict of laws, nor does it establish which legal provisions should prevail when the disclosure requirements under both the DMFSD and other product-specific EU laws apply to the same distant contract. On the contrary, the DMFSD only states that where there are provisions in EU law governing financial services which contain prior information requirements additional to those listed in Article 3(1) of the DMFSD, these requirements will continue to apply. By contrast, some of the product-specific EU laws have legislated this issue to some extent, shedding light on their relationship with the DMFSD with respect to the provision of pre-contractual information. For instance, the MCD[473] and CCD[474] have established that the provision of the standard information sheet is deemed to fulfil the pre-contractual information requirements under the DMFSD. The PSD II, for its part, opted for a different regulatory approach and directly amended some of the provisions of the DMFSD to adapt pre-contractual information requirements to the specificities of payment services[475]. The PRIIPs also legislates its relationship with the DMFSD to a certain extent by stipulating in Recital 26 that the provisions of the PRIIPs apply alongside the requirements under distance marketing. However, unlike the CCD and MCD, it does not state that the provision of pre-contractual information under PRIIP fulfils the information disclosure requirements under the DMFSD.

[470] Article 28 PEPP.

[471] The percentage of OPC respondents who found the DMFSD to be coherent with EU product-specific legislation ranged from: 71% for the CCD, 66% MCD, 57% PAD, 53% PSD II, 50% IDD, 53.5% MiFID II, 50% UCITS, 48% PRIIPS, 46% Prospectus Regulation, 45% for AIFMD. The highest level of incoherence was identified with regard to the PSD II and IDD, with 22% of the stakeholders believing that they were incoherent with the DMFSD. 69% of the survey respondents believe that the DMFSD is in line and coherent with other relevant legislation at EU level related to financial services or affecting financial institutions and only 15% disagreed with that statement.

[472] See: European Commission, LE Europe, VVA Europe, Ipsos NV, ConPolicy and Time.lex (2019). Behavioural study on the digitalisation of the marketing and distance selling of retail financial services. Available at: https://ec.europa.eu/info/sites/info/files/live_work_travel_in_the_eu/consumers/digitalisation_of_financial_services_-_main_report.pdf; CEPS (n.d.) The Future of Retail Financial Services What policy mix for a balanced digital transformation?. Available at: https://www.ceps.eu/system/files/TFRFutureFinancialServices.pdf; OECD, G20/OECD Policy Guidance Financial Consumer Protection Approaches in the Digital Age. Available at: https://www.oecd.org/finance/G20-OECD-Policy-Guidance-Financial-Consumer-Protection-Digital-Age-2018.pdf

[473] Article 14(7) MCD.

[474] Article 5(1) CCD.

[475] Article 39 PSD II.

Examples of cases for which the DMFSD acts as safety net in the area of information disclosure (see Section 4.1.2), include the provision of pre-contractual information for pension products not following the voluntary scheme of PEPP and the provision of information on the right of withdrawal for services/products for which product-specific legislation does not provide for this right.

Right of withdrawal

There is some degree of overlap between the DMFSD and the CCD on the right of withdrawal. There are also some minor inconsistencies between the DMFSD and the PSD II, the Prospectus Regulation, the DGS and in particular, with the Solvency II Directive[476]. None of the other product-specific EU laws analysed for the purposes of this evaluation provide for a right of withdrawal. Examples of financial services/products for which only the DMFSD ensures the existence of a right of withdrawal are personal pensions, non-life insurance contracts, credits below €250 and above €75,000 (see Section 4.1.2).

Both the DMFSD and the CCD state that the consumer has a period of 14 calendar days to withdraw from the financial agreement without giving any reason[477]. However, the DMFSD foresees reinforced protection of consumers in the case of withdrawal by establishing that the supplier cannot require the consumer to pay any amount unless they can prove that the consumer was duly informed (during the pre-contractual phase) of the amount payable. Additionally, the supplier cannot request such payment if they have commenced the performance of the contract before the expiry of the withdrawal period without the consumer's prior request. Despite these differences, Article 14(5) of the CCD expressly states that wherever the consumer has a right of withdrawal under the CCD, the right of withdrawal foreseen by the DMFSD does not apply. This provision reinforces the coherence between both legal instruments.

In line with the option contained in Article 6(3) of the DMFSD[478], the MCD does not establish a mandatory right of withdrawal for mortgage credit[479]. However, if a right of withdrawal is granted, the MCD states that the timeframe to exercise this right is at least seven days (instead of the 14 foreseen by the DMFSD). Where a right of withdrawal is not granted, the consumer should be given a reflection period of at least seven days. Like the CCD, the relationship between the MCD and the DMFSD with regard to the right of withdrawal is legislated under Article 14(6) MCD, which states that where the consumer is granted a right of withdrawal for a mortgage credit, the DMFSD does not apply. This provision increases the existing synergies between the MCD and the DMFSD.

While the DMFSD sets the maximum number of days within which the right of withdrawal can be exercised, the Prospectus Regulation[480] states that the right of withdrawal cannot be exercised until a minimum of two days after the final offer price and/or amount of securities has been filled[481]. For its part, the PSD II allows the consumer to withdraw their consent to execute a payment transaction or a series of payment transactions at any time, as long as it takes place before the moment of irrevocability.

The Directive on DGS only provides for a right of withdrawal in the case of a merger[482]. Under this scenario, this Directive foresees a three-month period following notification

[476] This was confirmed by the legal analysis, the literature review and the OPC responses.
[477] Article 14 CCD.
[478] 'Member States may provide that the right of withdrawal shall not apply to: (a) any credit intended primarily for the purpose of acquiring or retaining property rights in land or in an existing or projected building, or for the purpose of renovating or improving a building, or (b) any credit secured either by mortgage on immovable property or by a right related to immovable property'.
[479] Article 14 MCD.
[480] This Regulation only foresees a right of withdrawal in cases where the final offer price and/or amount of securities to be offered to the public could not be included in the prospectus.
[481] Article 17 Prospectus Regulation.
[482] Article 16(6) DGS.

of the merger or conversion or similar operation for depositors to withdraw (or transfer to another credit institution) their eligible deposits, without any penalty.

In the context of individual life insurance contracts, The Solvency II Directive provides for a right of withdrawal that can be exercised between 14 and 30 days from the time when the consumer was informed that the contract had been concluded[483]. Thus, the right of withdrawal under the Solvency II Directive is less stringent than the DMFSD which establishes a period of 30 days to exercise this right. Moreover, the Solvency II also allows for two exceptions to the right of withdrawal that are not specifically foreseen under the DMFSD[484]: a) for contracts with a duration shorter than 6 months; b) for policy holders who do not need special protection because of their status. Additionally, unlike the DMFSD, the Solvency II Directive does not mention that the exercise of the right of withdrawal cannot carry any penalty but only that the policy holder will be realised from any future obligations arising from the contract. There is also a difference in the way the right of withdrawal has to be notified under both Directives. While the DMFSD requires to notify the withdrawal "by means which can be proved in accordance with national law[485]", the Solvency II Directive does not include any requirement on the notification of withdrawal.

Similar to the findings on the provision of pre-contractual information, the interaction of the DMFSD with other product-specific EU legislation with regard to the right of withdrawal could be better clarified to avoid legal uncertainty and to maximise existing synergies.

Unsolicited communications and services

The evaluation identified no overlap or inconsistencies between the DMFSD provisions on unsolicited services and communications and similar provisions under the EU product-specific legislation analysed.

4.4.4 EQ13. Is the DMFSD coherent with national consumer protection legislation and product-specific legislation?

Main findings

Evidence showed that there is significant overlap between national provisions transposing the DMFSD and national horizontal consumer protection and product-specific legislation. In fact, since most national provisions on consumer protection derive from the transposition of EU law, most of the identified overlap and inconsistencies mirror the findings on coherence at EU level (see EQ11 and EQ12).

This section assesses the extent to which the national transposition of the DMFSD is in line with national consumer protection and product-specific legislation in the areas of credit, banking, mortgage, insurance, pensions and investments sold at distance[486]. More specifically, this section analyses existing overlaps and differences on how information disclosure requirements, the right of withdrawal and unsolicited services and communications are regulated under the national transposition of the DMFSD and other national laws. In this context, it is important to highlight that in practice, whenever contradicting provisions apply to the same contract, the principle of *lex specialis* usually applies and therefore, product-specific legislation will often prevail over the national transposition of the DMFSD (see below).

Evidence showed that there is significant overlap between national provisions transposing the DMFSD and national horizontal consumer protection and product-

[483] Article 186 of Solvency II Directive.
[484] Article 186.2 of Solvency II Directive.
[485] Article 6.6 of the DMFSD.
[486] Although the analysis focuses on those provisions that overlap/differ from the provisions contained in the national transposition of the DMFSD for financial products sold at a distance, the majority of the national product-specific legal instruments examined apply to both distance contracts and 'on-premises' contracts.

specific legislation. In fact, since most national provisions on consumer protection derive from the transposition of EU law, most of the identified overlap and inconsistencies mirror the findings on coherence at EU level (see EQ8 and EQ9).

A degree of overlap between the national provisions transposing the DMFSD and national consumer protection and product-specific legislation was found primarily in the provisions of pre-contractual information and the right of withdrawal. By contrast, there were no major discrepancies and considerably less overlap for unsolicited services and communications, where any overlaps noted stem mostly from national horizontal consumer protection laws rather than product-specific legislation.

Pre-contractual information

The evaluation found that all Member States experience a degree of overlap between the national transposition of the DMFSD and other national consumer protection laws (both horizontal and product-specific) on the provision of pre-contractual information in distance contracts of financial services. Additionally, the national consumer protection and most product-specific legislation in all Member States contain more stringent provisions on information disclosure. This is because pre-contractual information requirements are tailored to the characteristics of the products regulated by product-specific laws and are therefore more detailed than those established under the national transposition of the DMFSD.

Information on the product type, identity and address of the service provider, total value and total duration of the contract, applicable terms, fees and costs was required to be provided to the consumer under most national product-specific legislation in all Member States.

In line with the findings at EU level, most Member States' national product-specific laws require financial service providers to provide more detailed pre-contractual information than that foreseen under the national transposition of the DMFSD. Some examples of more stringent provisions include the requirement to include product-specific information tailored to the characteristics of the regulated product (e.g. information on the existence of a guarantee fund, creditworthiness check, buyback values for insurance contracts, necessity to perform an assessment of immovable property in the case of mortgages, scope of activities of the pension fund, ancillary services, etc.), the use a specific template for the provision of pre-contractual information (i.e. credit, mortgage, insurance and investments) and the use of websites and electronic media to provide pre-contractual information. Some Member States[487] have also introduced more stringent language requirements for the provision of pre-contractual information, by establishing the language(s) in which this information must be provided. The obligation to provide not only pre-contractual information but also an adequate explanation was established for some products (i.e. mortgage and credit) in most Member States.

While the DMFSD only requires the provision of pre-contractual information 'in good time' before the consumer is bound by an agreement, the product-specific legislation in some Member States has established more stringent time requirements. For instance, in Romania, the national transposition of the DMFSD only requires pre-contractual information to be provided 'in due time' while the national legal provisions transposing the CCD[488] require the information to be provided 'in sufficient time', but not less than 15 days prior to contract conclusion[489]. Similarly, in Spain, Article 14 of the Mortgage Act[490] states that the pre-contractual information must be provided at least five calendar days before the conclusion of the contract and, in any case, before the consumer assumes any obligation arising from the offer or the loan or mortgage loan agreement. If these requirements are not met, the contract can be null and void. Where an

[487] Including AT, BE, FR, DE, EL, IE, IT, LV, LU, NL, PT, RO, SK, SI, ES, UK.
[488] Chapter 2, Section 2, Articles 11-20 of GEO no 50/2010 transposing the CCD.
[489] This term can be shortened with the consumer's express consent.
[490] Act 2/2009 of 31 March regulating the contracting with consumers of mortgage loans or mortgage-backed facilities and brokering services for loan or credit facility agreements.

intermediary is involved, the pre-contractual information has to be provided at least 15 calendar days before the conclusion of the intermediation contract and, in any case, before the consumer assumes any obligation. A similar provision exists in Greece, where the law on mortgage credit requires the consumer to be provided with pre-contractual information at least 10 days before a binding offer or signing the mortgage credit agreement[491].

Some minor discrepancies were noted in some Member States between the provision of pre-contractual information in the national transposition of the DMFSD and national horizontal consumer protection and product-specific legislation. This is the case for insurance contracts in Slovenia, where the financial service provider is required to provide pre-contractual information at the conclusion of the contract (rather than 'in good time' before the conclusion of the contract, as required by the DMFSD).

In Croatia, the Insurance Act does not allow for pre-contractual information to be provided on a durable medium other than paper[492]. The Croatian Consumer Housing Crediting Act (CHCA)[493] specifically distinguishes between two pre-contractual stages, advertisement and pre-contractual information, providing for different information to be included at each of these two pre-contractual stages.

In Greece, while the national transposition of the DMFSD does not require financial service providers to provide the pre-contractual information 'in good time' before signing the contract, Greek product-specific laws on credit, insurance and investment contracts require them to provide the pre-contractual information 'in sufficient time' before signing the agreement[494].

Several Member States[495] have regulated the interplay between the national transposition of the DMFSD and other product-specific laws (particularly in the areas of credit, mortgages and payment services) by stating that whenever the latter contain specific information disclosure requirements, they take priority over application of the national provisions transposing the DMFSD. In some Member States, despite having no explicit legal provision on which law prevails in practice, the general civil law principle of *lex specialis* applies. In others, however, national provisions transposing the DMFSD apply cumulatively with horizontal and product-specific legislation, which may result in a long list of information disclosure requirements[496]. For instance, one of the OPC respondents stated that, in Germany, the retail investor receives a KID containing standardised information on the PRIIP manufacturer, competent supervisory authority, description of the type of product, description of the specific risks, breakdown of the costs, and an explanation of how they can complain, in addition to the information required under the national transposition of the DMFSD. These information requirements are largely the same as those under the DMFSD, meaning that consumer effectively receive the same information twice[497].

Right of withdrawal

The DMFSD is generally coherent with national consumer protection and product-specific legislation applicable to distance sale of financial products[498] in respect of the right of withdrawal. However, significant overlap was identified for credit agreements and - to

[491] Articles 13 and 14 Law 4438/2016 (Government Gazette A 220 of 28 November 2016) transposing Mortgage Credit Directive (2014/17/EU). In practice this provision grants the consumer a 10-day reflection period.
[492] Article 382 Insurance Act.
[493] Articles 10 and 14 CHCA.
[494] Ministerial Decision Z1 699/2010, Law 4583/2018 and Law 4514/2018.
[495] For example, BE, DE, PL, PT, EL, IT, HR, CY, DK, IE, NL, LU, ES.
[496] This was the case in Italy and Poland, for example.
[497] Position paper submitted by the German Banking Industry Committee in the context of the OPC.
[498] Although the analysis focuses on those provisions that overlap/differ from those contained in the national transposition of the DMFSD for financial products sold at distance, the majority of the national product-specific legal instruments examined apply to both distance contracts and 'on-premises' contracts.

a lesser extent - for insurance and mortgage contracts. The evaluation also found some discrepancies in several Member States between the national transposition of the DMFSD and product-specific legislation, particularly in the areas of insurance and mortgages. However, these differences do not seem to be controversial in practice, as most Member States have regulated the relationship between *lex generalis* (the DMFSD) and *lex specialis* (product-specific legislation) for conflicting provisions on the right of withdrawal. In the absence of specific rules, the general principle of *lex specialis* applies. Thus, in cases of conflict, product-specific national laws often prevail over the national provisions transposing the DMFSD. Nonetheless, this is not the case in all Member States, with several disputes in Germany over the unclear interplay of the right of withdrawal under the national transposition of the DMFSD and the national transposition of the CCD and the MCD[499].

In all Member States, the timeline to exercise the right of withdrawal for credit contracts mirrored that provided under the DMFSD (14 days)[500]. Similarly, about half of the Member States also foresee the same timeline to exercise the right of withdrawal for life insurance contracts (30 days)[501] and eight Member States do so for mortgage agreements (14 days)[502]. On the other hand, in line with the findings at EU level (see EQ9), national product-specific laws regulating the right of withdrawal for payment services and for investments (those that allow for a right of withdrawal) provide for different rules than those under the DMFSD.

Many of the discrepancies relate to different timelines to exercise the right of withdrawal, particularly for insurance and mortgage products. In Estonia[503] and Germany[504], for instance, for life insurance and pension contracts, the policy holder has 14 days instead of 30 days to exercise the right of withdrawal without giving a reason. In Latvia, both the insurer and the policy holder can terminate the insurance contract during the 15 days prior to its entry into force[505]. In Belgium, while in the case of distance contracts in general, the consumer has a right of withdrawal during the 14 days from the conclusion of the contract, in the case of non-life insurance contracts concluded at a distance, both the policy holder and the insurer have a period of 14 days to cancel the insurance contract without penalty and without giving a reason. With regard to mortgage agreements, the Latvian Consumer Rights Protection Law states that the parties can agree that the period to exercise the right of withdrawal terminates at the moment when the property right or mortgage is registered in the Land Register or when the amount of credit has been transferred to the third party indicated in the consumer credit agreement[506]. In Cyprus, for mortgage contracts, the right of withdrawal can be exercised within five days, although if the borrower received any money within that period, that right is waived[507]. By contrast, in France, the consumer has four months to withdraw after the acceptance of the mortgage agreement[508]. In both Germany[509] and

[499] See the position paper submitted by the German Banking Industry Committee in the context of the OPC. For further details see also the preliminary Bonn Regional Court rulings of 17 April 2018 (ref. 17 O 146/17) and 9 February 2018 (ref. 17 O 24/17) concerning the question of the right of withdrawal from consumer credit agreements under distance marketing law. Press release issued by Bonn Regional Court available at: http://www.lg-bonn.nrw.de/behoerde/presse/zt_archiv_060/Archiv-2018/Pressemitteilung-05-2018-vom-26_04_2018-Zulaessigkeit-von-zugunsten-des-Verbrauchers-abweichenden-nationalen-Regelungen-beim-Verbraucherdarlehens-Wide.pdf

[500] This is due to the transposition of the CCD in all Member States,

[501] AT, BE, BG, CY, DK, FI, FR, HU, IT, PL, PT, SK, SI, UK. In Italy, however, there is an exception for life insurance covering the new form of pension backed loan created by Act No 232/2016. For this type of life insurance, the right of withdrawal is 14 days.

[502] BE, FI, HU, PL, SK, SI, ES, LU. In the Netherlands, there is a reflection period of 14 days but not a right of withdrawal.

[503] Sec. 433 of the Law of Obligations Act.

[504] § 8 VVG.

[505] Articles 35-38 of the Insurance Contract Law.

[506] Article 12 of the Consumer Rights Protection Law.

[507] Section 14(7)(a) of Law 38(I)/2016.

[508] Article L313-36 French Consumer Code.

[509] § 8 VVG.

Austria[510], for credit agreements, if consumers have not been correctly informed about their right of withdrawal, they can withdraw from the contract at any time. Finally, contrary to what is foreseen under the national transposition of the DMFSD, in Luxembourg, the e-commerce law[511] establishes a general period of seven days to exercise the right of withdrawal without being obliged to pay anything.

In terms of the notification process and formal requirements to exercise the right of withdrawal, there are some differences between the national transposition of the DMFSD and product-specific legislation in several Member States. For instance, in Belgium, to exercise the right of withdrawal from credit[512] and mortgage[513] agreements, the consumer is required to inform the credit provider by registered mail or by another medium accepted by the credit provider. This is a stricter rule than under the national law transposing the DMFSD, which provides that the withdrawal is effective if it is sent to the supplier in writing or on another durable medium that is available and accessible to the supplier. In Poland, in credit and mortgage contracts, the creditor (as well as credit intermediaries and agents) should provide the consumer with a template of a withdrawal declaration to exercise their right of withdrawal[514]. In the UK, while for 'general' distance contracts of financial services the withdrawal can be notified orally, in writing or in another durable medium available and accessible to the supplier[515], for insurance contracts the consumer can only serve notice of withdrawal in writing, on paper or another durable medium[516]. In Italy, there is a difference between the means of notification for credit agreements and the notification process established under the national transposition of the DMFSD. While the national transposition of the DMFSD requires the withdrawal to be notified by registered letter (with acknowledgement of receipt) —unless the trader give the option to the consumer to use other means expressly mentioned in the pre-contractual information— for credit agreements, the national law transposing the CCD refers to the Italian Consumer Code, which states that the consumer may either use the model withdrawal form set out in Annex I(B) CRD or make any other unequivocal statement of withdrawal[517].

Mirroring the analysis of coherence with product-specific EU legislation (see EQ9), at national level, the conditions for withdrawing from payment services differed from those set out under Article 6 of the DMFSD and varied between Member States. For example, in several Member States[518,519], the consent for payment services can be withdrawn by the payer at any time until the time of irrevocability of the payment. In Greece[520], Hungary[521], Latvia[522] and Luxembourg[523], the consumer and the service provider can also agree on a notification period for the withdrawal, but this period cannot be longer

[510] § 12 VerbrKrG.
[511] Article 55 Law of 14 August 2000 on Electronic Commerce.
[512] Article VII.78, § 3, 11 Code of Economic Law (CEL).
[513] Article VII.134, § 3, 11 ° CEL.
[514] Articles 53–59 Consumer Credit Act; Article 42–46 Mortgage Credit Act.
[515] Regulation 9(3)-(7) of the Distance Marketing Regulations corroborated with Rule 15.3.1 and Guidance 15.3.3 of Conduct of Business Source Book (COBS).
[516] Rule 7.1.6 of Insurance Conduct of Business Source Book.
[517] Article 125-ter TUB.
[518] For instance, AT, BE, NL, LT, LU, UK.
[519] Note that in Belgium, however, longer withdrawal periods may be agreed between the consumer and the payment service provider. The payment service provider concerned may charge costs for the exercise of this additional right of withdrawal.
[520] Article 55 Law 4537/2018.
[521] Article 17 Act LXXXV of 2009 on the Pursuit of the Business of Payment Services.
[522] Article 67 Payment Services and Electronic Money Law.
[523] Article 74 Law of 10 November 2009 on payment services, the activity of establishing electronic money and the finality of settlement in payment systems and securities settlement systems.

than one month[524]. In Finland, the right of withdrawal for binding long-term savings contracts is 30 days[525].

There are some minor differences between the national transposition of the DMFSD and national consumer protection and product-specific legislation in respect of the timeline and conditions for the payment of the service provided before withdrawal. However, most of these differences are merely a natural consequence of the specific characteristics of the different financial products and do not pose any challenges in practice as the general civil law principle of *lex specialis* usually applies. For instance, for credit agreements, several Member States[526] require the consumer to return not only the amount received but also the interest accrued on the credit while this was available to the consumer. In Finland[527], Austria[528], Latvia[529], Slovenia[530] and Belgium[531], for instance, the creditor can ask the consumer who exercised his/her right of withdrawal to pay for any official charges paid by the creditor that cannot be reimbursed.

Unsolicited communications and services

On unsolicited services and communications, the provisions of the DMFSD are generally coherent with national horizontal consumer protection and product-specific legislation. While some Member States have some overlap between the national transposition of the DMFSD and other national consumer protection laws, in others, unsolicited services and communications were only regulated by national laws transposing the DMFSD[532]. The evaluation did not identify any major inconsistencies between the national transposition of the DMFSD and other national laws for unsolicited services and communications.

In line with the findings on pre-contractual information and the right of withdrawal, the findings in this sub-section also mirror the analysis of coherence at EU level (see EQ8) due to the fact that most of the national provisions regulating unsolicited services and unsolicited communications are a transposition of EU law.

Similar provisions to those in Articles 9 and 10 of the DMFSD are also included in national consumer protection laws and product-specific legislation in at least 19 Member States[533]. The main areas of overlap relate to general (horizontal) consumer protection laws. This is particularly the case for national laws transposing the UCPD[534] and the ECD, but also for some of the provisions contained in national civil codes[535] and consumer protection codes[536].

In some Member States, national consumer protection and product-specific legislation have gone beyond what is set forth in the DMFSD, creating more stringent provisions on unsolicited services and communications. These additional requirements mostly derived from the national transposition of the EPD. In Croatia, for example, the Electronic Trade Act and the Electronic Communications Act have gone further than the

[524] In some Member States (EL, HU) the law does not specify whether the term 'termination' equates to 'withdrawal'.
[525] Article 12 § Act on Long-Term Savings Accounts.
[526] See, for instance: FI, AT, EL, ES, MT, SK, SI, BE.
[527] 20 § Chapter 7 and 17 § Chapter 7a Consumer Protection Act.
[528] Article § 12 VerbrKrG.
[529] Article 12 Consumer Rights Protection Law.
[530] Article 18 Consumer Credit Act.
[531] Art. VII.83 CEL.
[532] AT, DE, CY, CZ, HU, MT, PL, SI, SE.
[533] BE, BG, HR, DK, EE, FR, EL, IE, IT, LV, LT, LU, NL, MT, PT, RO, SK, ES, UK.
[534] For instance, in Greece, the transposition of the UCPD repeats verbatim the provisions contained in Ministerial Decision Z1-629 (as subsequently amended) that transposes the DMFSD.
[535] For example, in Lithuania, Article 6.22816 of the Civil Code virtually reproduces the provisions regarding unsolicited services under the DMFSD.
[536] For example, in Italy, Article 26(1)(f) Consumer Code, in Bulgaria, Article 68k (3) Consumer Protection Act and in Ireland, Consumer Protection Code of 2012.

DMFSD and included the use of electronic messages (SMS and MMS) as a means of unsolicited communication[537]. In the same vein, the consumer protection laws in some Member States, such as Belgium[538], Bulgaria[539], Croatia[540], Greece[541], Portugal[542], Romania[543], Slovakia[544], Spain[545] and the UK[546], have also expressly regulated unsolicited communication by email.

In Slovakia, the Civil Code[547] states that recurring performance provided to the consumer under a contract concluded by means of distance communication is considered unsolicited service unless the consumer has specifically requested such performance. In Ireland[548], the Consumer Protection Code expressly prohibits the unsolicited offer of pre-approved credit by a regulated entity. Spain has established that in the case of receiving unsolicited services, the consumer is not obliged to return or keep them, nor to make any payment[549]. In this context, in most Member States, the national transposition of the UCPD also complements the prohibition of unsolicited services established under the national transposition of the DMFSD by categorising as aggressive commercial practice the provider's request for an immediate or deferred payment, or the return or retention of goods or services provided without the consumer's request[550].

Although the evaluation found no major inconsistencies, some Member States have minor differences between the national transposition of the DMFSD and national consumer protection and product-specific legislation. For example, the Irish Consumer Protection Code prohibits unsolicited communications of any kind for personal consumers in respect of arrears[551]. Nevertheless, unlike under the national transposition of the DMFSD, the Code also allows up to three unsolicited communications to consumers in payment arrears using any means of communication. The Romanian transposition of the EPD allows for unsolicited communications if the email addresses are obtained directly from the client and the client did not initially object to being contacted[552]. Similarly, in Luxembourg, the Law on the protection of individuals for processing personal data in electronic communications also allows for unsolicited communications without the express consent of the consumer if they have directly provided their contact details to the supplier[553]. Very similar provisions are contained in the Italian[554], Slovak[555] and Spanish[556] horizontal consumer protection laws. In Greece, the national law transposing the ECD establishes more stringent requirements than those established under the national transposition of the DMFSD, stating that service providers engaged in unsolicited commercial communication by email must regularly

[537] Article 8 Electronic Trade Act (ETA); Article 107 Electronic Communications Act (ECA).
[538] Art. XII.13 CEL that applies to e-commerce transactions.
[539] Article 68k(3) Consumer Protection Act.
[540] Article 8 ETA; Article 107 ECA.
[541] Article 6 Presidential Decree 131/2003 (Government Gazette A 116 of 16 May 2003) transposing into national law the ECD (2000/31/EC).
[542] Article 13-A Law 41/2004.
[543] Art 12 Law 506/2004 transposing the EPD.
[544] Article 62 Act no. 351/2011 Coll on electronic communication; Article 4(6) Act on e-commerce.
[545] Article 21 Act 34/2002 of 11 July on information society and e-commerce.
[546] Rule 2.8.5 CONC.
[547] Article 53(8) Civil Code.
[548] Sections 3.14, 3.3.7 and 8.14 Consumer Protection Code of 2012.
[549] Articles 101 and 66 GAPCU.
[550] For instance: In Spain (Article 31 Act 3/1991 of 3 January on Unfair Competition), in Latvia (Article 13 Unfair Commercial Practices Prohibition Law), in Romania (Annex I, Point 6 (aggressive commercial practices) Law 363/2007 transposing the UCPD.
[551] Section 8.14 Consumer Protection Code of 2012.
[552] Article 12 Law 506/2004 transposing the EPD.
[553] Article 11 Law 30 May 2005 on specific provisions for the protection of the individual with regard to the processing of personal data in the electronic communications sector.
[554] Section V, para. 2.3 of the Bank of Italy.
[555] Article 62 Act no. 351/2011 Coll on electronic communication.
[556] Article 21 Act 34/2002 of 11 July on information society and e-commerce.

maintain and consult registries where natural persons who choose not to receive such commercial communications may be registered[557].

4.5 EU added value

The following section presents the main benefits of this EU intervention, and explains to what extent the positive effects could not have been achieved at national level.

4.5.1 EQ14. What is the added value delivered by the DMFSD and its implementation over and above what could reasonably have been expected from national legislation in the Member States alone? Is there evidence of clear benefits from EU level action (e.g. in terms of the consolidation of the internal market)? To what extent do the issues addressed by the DMFSD continue to require EU action?

Main findings

There were clear benefits from EU-level action; specifically, affording the same standards of consumer protection for all financial services sold at distance on the three key aspects covered by the DMFSD, as well as ensuring a large level playing field between providers on these aspects.

Following the entry into force of product-specific legislation, the added value of the DMFSD declined in its value over time but overall remains considerable because of its 'safety net' role for products that are not covered by product specific legislation and new products that might appear on the market.

Overall, the added value of the DMFSD remains considerable despite the decline in its value over time following the entry into force of product-specific legislation.

At the time the DMFSD came into effect, there was little else by way of product-specific legislation to ensure minimum standards of protection for consumers. The DMFSD standards – in the areas of pre-contractual information, the right of withdrawal and unsolicited services and communications – went beyond those in some of the (then 15) EU Member States. The subsequent enlargement of the EU has shown the added value of the DMFSD for newer Member States, most of which did not have similar provisions on the product areas covered by the Directive. This clearly shows that the Directive (and its implementation) has had added value above and beyond what could have been expected from national legislation in the Member States alone.

When the DMFSD entered into force in 2002, its contribution to EU-wide standards for consumer protection was quite clear. More specifically, at that time, no Member States provided for pre-contractual information specific to financial services sold at a distance, seven covered the right of withdrawal, 10 addressed unsolicited services, and 11 unsolicited communications, which demonstrates the added value of the DMFSD for the remainder. The Directive established general principles that applied horizontally to different business areas and acted as a safety net in those Member States whose national legislation did not cover those areas.

There were clear benefits from EU-level action; specifically, affording the same standards of consumer protection for all financial services sold at distance on the three key aspects covered by the DMFSD, as well as ensuring a large level playing field between providers on these aspects. Although new product-specific legislation has diminished the Directive's EU added value, key benefits of EU-level action remain, given that currently, for some financial services some elements are covered by the DMFSD alone, including specific requirements for pre-contractual information (e.g., for personal pensions, credits below EUR 200 and above EUR 75,000, and information on the right of withdrawal for most other type of products except payment services, credits between

[557] Article 6 Presidential Decree 131/2003 (Government Gazette A 116 of 16 May 2003) transposing into national law the ECD (2000/31/EC).

EUR 200 and 75,000 and the some mortgages) and the right of withdrawal (for most other type of products except payment services, credits between EUR 200 and 75,000 and the some mortgages). In quantitative terms, where the DMFSD covered all products during 2002-2007, by 2010 (CCD and PSD I) around 8% of sales were covered by product-specific legislation, 50% in 2016 (MCD, PAD), 54% in 2018 (PSD II) and 90% since 2018 (IDD). Given its complexity, EU legislation cannot be directly linked to coverage of products, but it can, however, give a general idea of the wider trend in aspects now covered by product-specific legislation and previously only covered by the DMFSD at EU level.

Stakeholders consulted for this study generally believe that the DMFSD had a high or medium level of added value. Over 80% of respondents to the OPC held that the DMFSD had high or medium added value in ensuring better consumer protection, over 70% in terms of better functioning of the single market, and just over 65% in achieving legal clarity, while just over 60% found it helped in addressing cross-border problems.[558] Industry stakeholders all agreed in majority, but percentages for public authorities and consumer associations were higher. Over 80% of wider stakeholders consulted for the study outside the OPC considered that the DMFSD had added value in having created a level playing field, ranging from over 6 in 10 business associations to around 9 in 10 consumer associations and national authorities. Ensuring a higher level of consumer protection by adopting EU-level legislation was supported by under 8 in 10 business associations and just over 9 in 10 consumer associations and national authorities.

When added value was judged as low this was in vast majority due to sector-specific legislation rendering the DMFSD less relevant than at the time of its inception. Very rarely did stakeholders in consultations question the added value of the DMFSD as such, and, when they did, it was mostly related to possible overlap of rules due to sector-specific legislation. Other argued that the DMFSD had lower added value in addressing cross-border problems, ensuring better functioning of the single market and improving legal clarity. The overall positive perception of stakeholders in the added value of the DMFSD is explained by the ability of the Directive to allow for a minimum level of consumer protection to be consistently established among Member States in a way that is flexible enough to be applied to new products and circumstances. Such an approach guarantees consumer protection regardless of innovation in financial products/services, new means of communication and new types of providers/business models.

The functioning of the single market and addressing cross-border problems are impacted by the Directive to a limited extent and thus do not really impact the Directive's EU added value. The reason is that the DMFSD on its own has a relatively small impact on the functioning of the single market, as that depends on other sector-specific legislation and mostly wider trends in demand and supply. It therefore does not increase or diminish EU added value as it is very small to begin with. However, in view of digitalisation trends certain areas currently not foreseen or for which there is no secotr-specific legislation might be covered by the DMFSD. This could impact the EU added value positively for those specific provisions where such impacts are attributed to the DMFSD. However, the Directive's overall impact on the single market will remain small.

In some instances, such as pre-contractual information, product-specific legislation covers almost all financial sectors and in some instances provides additional requirements compared to the DMFSD.[559] The fact that product-specific legislation provides more detailed elements is to be expected, yet it also reduces the added value of the DMFSD on its own. In general, as specific financial products become increasingly regulated, legislation with a broader scope may lose part of its added value, as in the case of pre-contractual information.

[558] OPC, 2019
[559] This is the case in the Payment Accounts Directive (PAD) and the Market in Financial Instruments Directive (MiFID), for example.

The right of withdrawal does not exist in certain EU-level product-specific legislation, such as payment accounts, insurance, pensions and - to an extent - investments.

Overall, given that some of the information disclosure requirements (pre-contractual information) and the right of withdrawal are not covered by all product-specific legislation, it confirms the added value of the DMFSD to this date.

Similarly, while there is very little product-specific legislation covering unsolicited services and communications, there are (horizontal) directives that prohibit requesting payments for unsolicited services and communications, such as the Unfair Commercial Practices Directive (UCPD), the Unfair Contract Terms Directive (UCTD), the General Data Protection Regulation (GDPR), e-Privacy Directive and the e-commerce Directive (ECD). This latter directive only refers to unsolicited commercial communication by email, a medium that is only partially tackled by the DMFSD.

The added value of the DMFSD as a safety net for consumers has thus gradually decreased since it came into force, as most of the provisions introduced are now covered by other pieces of legislation. The added value of the DMFSD is expected to decrease further over time, especially given the likelihood of possible technological developments in so far as these create a further need for detailed product-specific legislation. However, precisely because the DMFSD acts as a safety net it remains relevant and adds clear value at EU-level until product-specific legislation is in place to cover those new services/products. Indeed, withdrawing the DMFSD would have negative consequences even if its overall added value would decrease over time (see section 4.5.2 below) Nevertheless, the Directive remains relevant in its completeness and precisely because it is now a 'safety net', as certain elements are not afforded the same standards in product-specific legislation. This means that the Directive's added value decreases, yet it remains an important back-up to legislation at Member State level.

The purpose of the DMFSD as a safety net becomes clear when considering the differences in consumer protection standards with regards to specific provisions. For example, the right to withdrawal applies to both distance and point-of-sale acquisition of life insurances in some Member States (such as ES, NL, PT) but in other Member States (IT, BE) only to distance sales, thus limiting the rights of consumers depending on the sales channel. The DMFSD therefore acts as a safety net in providing these rights, even if it means that the areas outside its scope (non-distance sales) do not have the same consumer protection standards. This, however, is an issue of consistency of wider EU-legislation and not the DMFSD as such (see also sections 4.3.2 to 4.3.4)

With respect to the current benefits of EU-level action, the DMFSD remains relevant, in particular for products falling outside the scope of horizontal or product-specific legislation. This relevance stems chiefly from the Directive's value as an important legislative support.

4.5.2 EQ15. What would be the most likely consequences of withdrawing the Directive assuming that product-specific legislation and horizontal legislation stays in place? Would the interests of consumers be significantly damaged?

Main findings

Withdrawing the DMFSD now would have less of a detrimental effect on consumers than it might have had a decade ago. Although the advent of new product-specific legislation would certainly soften the consequences of withdrawing the DMFSD itself, a number of adverse effects are nonetheless possible. In particular, the pre-contractual information requirements for savings accounts, credits below EUR 200 and above EUR 75,000 and personal pensions would become less stringent and a significant share of financial services would not be covered by the right of withdrawal anymore (e.g., payment accounts, insurances, personal pensions and credits below EUR 200 and above EUR 75,000).

Moreover, consumers buying products not covered by sector-specific legislation or new products at distance would not be protected.

Withdrawing the DMFSD now would have less of a detrimental effect on consumers than it might have had a decade ago. Although the advent of new product-specific legislation would certainly soften the consequences of withdrawing the DMFSD itself, a number of adverse effects are nonetheless possible. Consumer associations argued that it would lead to more thresholds for cross-border trade, and regulatory gaps and divergence of standards. Other stakeholders did not typically comment on its likely consequences, though industry stakeholders did argue that any change – even removing the Directive – would lead to adaptation costs simply because every change implies new costs.

As discussed under EQ14, many provisions of the DMFSD are covered either by other horizontal legislation or by product-specific legislation. In the immediate future, withdrawing the DMFSD could mean that some or all of the provisions are not available to consumers when using certain financial services, decreasing legal clarity and certainty and negatively impacting consumer interests. This could lead to different levels of consumer protection depending on the type of financial service used. A withdrawal of the DMFSD would also reduce the existing playing field and give undue competitive advantages to financial providers in Member States where requirements would be lower or where it would be easier for them to offer services cross-border. Indeed, the level playing field is precisely what is pointed out by stakeholder as one of its key advantages (see section 4.5.1).

In terms of the DMFSD's specific provisions, the right of withdrawal is now covered by several other sector-specific pieces of legislation, but its length is not uniform. The right of withdrawal therefore remains to have an advantage. Removing the DMFSD and thereby this right would increase regulatory uncertainty, reduce legal clarity and lead to regulatory fragmentation. It also reduces consumer protection standards in areas where the right to withdrawal only applies to online (as opposed to offline) purchase of financial products. An example are life insurance products.

For pre-contractual information, the fact that requirements apply in a cumulative matter to those of other legislation, means that a withdrawal could have detrimental effects for consumers where those specific requirements are not covered in other legislation.

In addition, without the DMFSD, there is a possibility that uncertainty and legal confusion will increase. Depending on how financial services evolve, the product-specific legislation currently in place may not be sufficient to cover new, emerging products. Even were such gaps remedied, it would take some time, during which consumers would be particularly vulnerable and subject to detriment. While the overall added value of the DMFSD has reduced as a result of sector-specific legislation, precisely because of its online or distance sales angle the Directive has added value at EU-level. As argued above, for some products the DMFSD is the only piece of legislation that ensures that consumers are protected by way of the right of withdrawal or the ban on unsolicited services and communications for certain online purchases of financial products. As digitalisation is expected to continue, and thereby distance sales, there is a considerable likelihood consumer protection standard would drop following its withdrawal.

Withdrawing the DMFSD at EU level may lead individual Member States to close perceived gaps at national level. Depending on the speed of developments in the field of financial services across the EU, this could lead to an increasingly fragmented approach to the regulation of market developments, with associated differences in levels of consumer protection for distance sales. As distance sales are increasing, removing the Directive would mean that as this sales channel becomes more important, levels of protection would be higher in some Member States as opposed to others. Therefore, while there is ever more sector-specific legislation, the extent of differences between Member States and degree of uncertainty would nonetheless increase.

Reduced harmonisation of the provisions covered by the DMFSD would adversely impact cross-border distance sales. Greater differences between Member States would heighten the difficulties for financial service providers to comply with the varying regulations and possibly imply higher costs. It would furthermore distort competition due to a reduction of the current level-playing field.

Annexes

Annex 1 - Case studies

Annex 2 - Documentation reviewed

Annex 3 - Stakeholders consulted

Annex 4 - Results of the consumer survey

Annex 5 - Results of the mystery shopping exercise

Annex 6 - Stakeholder consultation synopsis report

Annex 7 - Quantification methodology and limitations

Annex 8 - Legal research – EU and country factsheets

Annex 1 - Case Studies

Annex 1 is delivered in a separate document and includes the ten case studies developed to compile and examine in more detail the data collected during the evaluation on:

- Pre-contractual information (case study 1)
- Intermediaries (case study 2)
- Virtual currencies (case study 3)
- Peer-to-peer lending (case study 4)
- Pay-day loans (case study 5)
- Savings accounts (case study 6)
- Investments (case study 7)
- Insurances (case study 8)
- Credit cards (case study 9)
- Money transfers and payments (case study 10).

Annex 2 - Documentation reviewed

Table 10 includes the documents that have been reviewed.

Table 10. List of documents

Author	Year	Title	Reference
Legislative and policy documents			
Council of European Communities	1993	Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts	93/13/EEC
Greek Government Gazette 191	1994	Law 2251/1994 on Consumer Protection	2251/1994
European Commission	1996	Green Paper of the European Commission on Retail Financial Services in the Single Market	COM (96) 209 final
Council of the EU and European Parliament	1997	Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes	97/9/EC
Council of the EU and European Parliament	2000	Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market	2000/31/EC
Ministry of Economy of Luxembourg	2000	Law of 14 August 2000 relating to electronic commerce	2019/505/L

Author	Year	Title	Reference
Riigikogu	2001	Law of Obligations Act	RT I 2001, 81, 487
Council of the EU and European Parliament	2002	Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector	2002/58/EC
Head of State of Spain	2002	Act 34/2002 of 11 July on Information Society Services and Electronic Commerce	34/2002
Council of the EU and European Parliament	2002	Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services	2002/65/EC
President of Greek Republic	2003	Adjustment to Directive 2000/31 of the European Parliament and Council regarding certain legal aspects of the services of the information society, especially of electronic trade to the internal market	131/2003

Author	Year	Title	Reference
Commission des Assurances	2004	Avis relatif a la transposition en droit beige de la directive 2002/65/CE du Parlement europeen et du Conseil du 23 septembre 2002 concernant la commercialisation a distance de services financiers aupres des consommateurs	DOC C/2003/16
	2004	LAW no.506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector	506/2004
European Parliament and Council	2005	Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market	2005/29/EC
European Commission	2006	Communication from the Commission - Review of Directive 2002/65 of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directive 97/7/EC and 98/27/EC	COM (2006) 161 final
Ministry of Finance and Public Administration of Portugal	2006	Decree-Law No. 95/2006, of May 29th	95/2006

Author	Year	Title	Reference
European Commission	2007	Commission Decision of 21 May 2007 on guidelines to assist Member States in preparing the single integrated multi-annual national control plan provided for in Regulation (EC) No 882/2004 of the European Parliament and of the Council (notified under document number C(2007) 2099)	2007/363/EC
Council of the EU and European Parliament	2008	Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers	2008/48/EC
European Commission	2009	Communication de la Commission au Conseil et au Parlement européen - Révision de la directive concernant la commercialisation à distance des services financiers auprès des consommateurs (2002/65/CE)	COM(2009)626/F1
European Commission	2009	Communication de la commission au conseil et au parlement européen révision de la directive concernant la commercialisation à distance de services financiers auprès des consommateurs (2002/65/ce)	COM(2009) 626 final
European Commission	2009	Document de travail des services de la Commission.	SEC(2009) 1666
European Commission	2011	Commercialisation à distance de services financiers: la Commission saisit la Cour contre la Suède	IP/11/98

Author	Year	Title	Reference
European Parliament	2011	Consumer behaviour in a digital environment	IP/A/IMCO/ST/2010-08
World Bank	2011	Consumer Protection Laws and Regulations in Deposit and Loan Services	WPS5536
Council of the EU and European Parliament	2011	Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights	2011/83/EU
Council of the EU and European Parliament	2011	Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers	2011/61/EU
Czech Republic Parliament	2012	Law No. 89/2012 Coll. Civil Code	89/2012
Court of Amsterdam	2013	Court of Amsterdam appeal	CA3906
Council of the EU and European Parliament	2014	Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property	2014/17/EU
Council of the EU and European Parliament	2014	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	2014/92/EU
Council of the EU and European Parliament	2014	Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes	2014/49/EU

Author	Year	Title	Reference
Council of the EU and European Parliament	2014	Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions	2014/91/EU
Council of the EU and European Parliament	2014	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments	2014/65/EU
Council of the EU and European Parliament	2014	Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)	1286/2014
European Commission	2015	GREEN PAPER on retail financial services Better products, more choice, and greater opportunities for consumers and businesses	COM/2015/0630 final
Council of the EU and European Parliament	2015	Directive 2015/2366/EU of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market	2015/2366/EU
European Parliament	2015	Consumer protection aspects of mobile payments	PE 564.354
Council of the EU and European Parliament	2016	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons	2016/679

Author	Year	Title	Reference
		with regard to the processing of personal data and on the free movement of such data	
Council of the EU and European Parliament	2016	Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution	2016/97
President of Greek Republic	2016	Law 4438/2016 Harmonization of laws with Directive 2014/17 / EU of the European Parliament and of the Council of 4 February 2014 on consumer credit agreements for residential use	4438/2016
European Commission	2017	Communication from the commission to the european parliament, the council, the european economic and social committee and the committee of the regions closing the loop - an eu action plan for the circular economy	COM/2015/0614 final
European Commission	2017	Communication de la commission au parlement européen, au conseil, à la banque centrale européenne, au comité économique et social européen et au comité des régions plan d'action relatif aux services financiers pour les consommateurs: de meilleurs produits, un plus grand choix	COM(2017) 139 final
Council of the EU and European Parliament	2017	Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market	2017/1129

Author	Year	Title	Reference
European Parliament	2017	Financial technology (FinTech): Prospects and challenges for the EU	PE 599.348
Sofia Regional Court	2017	Decision No. 172218/14 July 2017 of Sofia Regional Court	172218/14
High Court of Ljubljana	2017	Decision VSL Sodba II Cp 1926/2017	1926/2017
European Parliament	2018	Competition issues in the Area of Financial Technology (FinTech)	PE 619.027
OECD	2018	Financial Consumer Protection Approaches in the Digital Age	G20/OECD Policy Guidance
Council of the EU and European Parliament	2018	Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market	2018/302
European Credit Research Institute	2018	Consumer Credit, Digitalisation and Behavioural Economics Are new protection rules needed?	Policy Brief No. 9
Council of the EU and European Parliament	2019	Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP)	2019/1238
Reports, studies and surveys			
OECD	2000	Cross-Border Trade in Financial Services: Economics and Regulation	OECD, 2000

Author	Year	Title	Reference
Susanna Friis-Hansen and Bengt Stavenow	2001	Secure electronic transactions—The mobile phone evolution continues	Friis-Hansen and Stavenow, 2001
Friedrich Heinemann and Mathias Jopp	2002	The Benefits of a Working European Retail Market for Financial Services	Heinemann and Jopp, 2002
Georges Daladier Abi-Rizk	2002	L'Internet au service des operations bancaires at financieres	Georges Daladier Abi-Rizk, 2002
Daniel Arthur Laprès	2002	Droit communautaire afférant aux services financiers en ligne	Laprès, 2002
Charlaine Bouchard et Marc Lacoursière	2003	Les enjeux du contrat de consommation en ligne	Bouchard et Lacoursière, 2003
Allen Berger	2003	The Efficiency Effects of a Single Market for Financial Services in Europe	Allen Berger, 2003
Haroun Boucheta	2003	Le demarche financier. Bilan et perpectives.	Boucheta, 2003
David Bowden	2004	Distance Marketing Regulations	Bowden, 2004
European Opinion Research Group	2004	Issues relating to Business and Consumer E-commerce: Executive Summary	European Opinion Research Group, 2004
European Financial Services Round Table	2004	Consumer Protection and Consumer Choice	The European Financial Services Round Table, 2004
Chambre de Commerce	2004	Projet de loi modifiant la loi du 14 août 2000 relative au commerce électronique (2662WJE).	Chambre de Commerce, 2004
Martin Ebers	2004	Information and Advising Requirements in the Financial Services Sector: Principles and Peculiarities in EC Law	Ebers, 2004
European Central Bank	2004	The evolving European financial landscape: integration and regulation	European Central Bank, 2004

Author	**Year**	**Title**	**Reference**
Jacques Delmas-Marsalet	2005	Rapport relatif à la commercialisation des produits financiers	Jacques Delmas-Marsalet, 2005
François Coupez and Thibault Verbiest	2006	Commercialisation à distance des services financiers: bilan d'un nouveau cadre juridique	Coupez et Verbiest, 2006
Xingan Li	2006	E-marketing, Unsolicited Commercial E-mail, and Legal Solutions	Xingan Li, 2006
European Commission	2006	Questions and Answers on Distance Selling	European Commission, 2006
CEPS	2006	Cross-Border Consolidation in the Financial Services Industry in Europe Developments, Obstacles & Policy Initiatives	CEPS, 2006
Stijn Claessens	2006	Competitive Implications of Cross-Border Banking	Claessens, 2006
Eurobarometer	2006	Special Eurobarometer 252: Consumer protection int the Internal Market	Eurobarometer, 2006
European Parliament	2006	Broad Economic Analysis of the Impact of the Proposed Directive on Consumer Credit	European Parliament, 2006
European Commission	2007	Report on Durable Medium - Distance Marketing Directive and Markets in Financial Instruments Directive	European Commission, 2007
European Financial Services Round Table	2007	Response of the European Financial Services Round Table (EFR) to the Green Paper of the European Commission on Retail Financial Services in the Single Market	European Financial Services Round Table, 2007
Hans Schulte-Nölke	2007	EC Consumer Law Compendium	Schulte-Nölke, 2007

Author	**Year**	**Title**	**Reference**
Association Henri Capitant	2007	Les contrats du consommateur - Rapport de droit belge	Association Henri Capitant, 2007
Hamish Thomas	2007	Payments evolution: striking the balance between regulation and innovation	Thomas, 2007
Reinhard Steennot	2008	Information Requirements as a Tool to Protect Consumers Receiving Investment Services	Steennot, 2008
CPEC	2008	Analysis of the Economic Impact of Directive 2002/65/EC concerning the distance marketing of consumer financial services on the conclusion of cross-border contracts for financial services between suppliers and consumers within the Internal Market	CPEC, 2008
Eurobarometer	2008	Special Eurobarometer 282	Eurobarometer, 2008
Ombudsman des Assurances	2009	Carnet 2009	Ombudsman des Assurances, 2009
Marco Loos	2009	Rights of withdrawal	Loos, 2009
Omri Shahar	2009	European Review of Contract Law	Omri Shahar, 2009
Patrick Wautelet	2009	Rome I et le consommateurs de produits et services financiers	Patrick Wautelet, 2009

Author	Year	Title	Reference
OECD INFE	2009	Financial Education and the Crisis: Policy Paper and Guidance.	OECD INFE, 2009
Hervé Jacquemin	2010	Conclusion et prevue du contrat d'assurance dans l'environnment numerique	Hervé Jacquemin , 2010
Nick Chater, Steffen Huck and Roman Inderst	2010	Consumer Decision-Making in Retail Investment Services: A Behavioural Economics Perspective	Chater, Huck and Inderst, 2010
Stephen Lumpkin	2010	Consumer protection and financial innovation: A few basic propositions	Stephen Lumpkin, 2010
European Commission	2010	Distance marketing of financial services: the Commission continues infringement proceedings against the Netherlands, Spain, Sweden and Italy.	European Commission, 2010
University of Amsterdam	2010	Comparative analysis of the applicable legal frameworks and suggestions for the contours of a model system of consumer protection in relation to digital content services	University of Amsterdam, 2010
Eurobarometer	2010	Flash Eurobarometer 300: Retailers' attitudes towards cross-border trade and consumer protection	Eurobarometer, 2010
Eurobarometer	2010	Flash Eurobarometer 299: Consumer attitudes towards cross-border trade and consumer protection	Eurobarometer, 2010
Udo Reifner and Sebastien Clerc-Renaud	2011	Financial Supervision in the EU. A consumer perspective	Reifner and Clerc-Renaud 2011
Horst Eidenmüller	2011	Why Withdrawal Rights? European Review of Contract Law	Horst Eidenmüller, 2011

Author	Year	Title	Reference
John Campbell, Jackson Howell, Brigitte Madrian and Peter Tufano	2011	Consumer Financial Protection	Campbell, Howell, Madrian and Tufano, 2011
Hans-W. Micklitz, Lucia Reisch and Kornelia Hagen	2011	An introduction to the special issue on "behavioural economics, consumer policy, and consumer law".	Micklitz, Reisch, Hagen, 2011
OECD INFE	2011	Measuring Financial Literacy: Core Questionnaire in Measuring Financial Literacy: Questionnaire and Guidance Notes for conducting an Internationally Comparable Survey of Financial literacy	OECD INFE, 2011
Eurobarometer	2011	Eurobarometer 737	Eurobarometer, 2011
Annalies Azzopardi	2012	The Contribution of EU Directives to the Objective of Consumer Protection	Annalies Azzopardi, 2012
Sarah Edgar	2012	Cross-border B2C e-commerce in the EU and the introduction of the Consumer Rights Directive: A cure for fragmentation?	Sarah Edgar, 2012
Michel Van Bellinghen and Tania Zgajweski	2012	Les enjeux de la transposition en belgique des nouvelles directives européennes sur les communications électroniques	Van Bellinghen and Zgajewski, 2012
Udo Reifner	2012	Financial Services and Consumer Protection – From Private Law to Bank Supervision	Reifner, 2012
Droit Privé	2013	L'articulation des directives e-commerce et services financiers à distance	Droit Privé, 2013
Wlodzimierz Szpringer	2013	Improving financial literacy: reconciling suppliers and consumers?	Wlodzimierz Szpringer, 2013
Reinhard Steennot	2013	The right of withdrawal under the Consumer Rights Directive as a tool to	Reinhard Steennot, 2013

Author	Year	Title	Reference
		protect consumers concluding a distance contract	
European Commission	2013	European Commission, 'Comparison Tools and Third-Party Verification Schemes', website	EC, Comparison Tools, 2013
EIOPA	2014	EIOPA report on Good Practices on Comparison Websites	EIOPA-CCPFI-13/100
Centre Européen des Consommateurs Allemagne	2014	Le marché européen de l'assurance	Centre Européen des Consommateurs Allemagne, 2014
European Parliament	2014	Consumer Protection Aspects of Financial Services. Internal Market and Consumer Protection	European Parliament, 2014
Katarzyna Malinowska	2014	Consumer protection in e-insurance in European Union law	Katarzyna Malinowska, 2014
Peter Leeflang, Peter Verhoef, Peter Dahlström and Tjark Freundt	2014	Challenges and solutions for marketing in a digital era	Leeflang, Verhoef, Dahlström and Freundt, 2014
Eva Tscherner	2014	Can behavioral research advance mandatory law, information duties, standard terms and withdrawal rights?	Eva Tscherner, 2014
Ward Schoenmaekers	2014	The Notion "Consumer" in European Private Law	Ward Schoenmaekers, 2014
Joasia Luzak	2014	To Withdraw Or Not To Withdraw? Evaluation of the Mandatory Right of Withdrawal in Consumer Distance Selling Contracts Taking Into Account Its Behavioural Effects on Consumers	Luzak, 2014

Author	Year	Title	Reference
Sigorta Sözleşmesinin İnternet Üzerinden and Akdedilmesi Hakkında Bazı Sorunlar	2014	Some problems related to online conclusion of insurance contracts	Üzerinden and Solunlar, 2014
Patrice Muller, Shaan Devnani, Richard Heys and James Suter	2014	Consumer protection aspects of financial services	Muller, Devnani, Heys and Suter, 2014
Mahinda Comviva	2015	The Evolution of mPOS: The Payments Industry in Flux	Mahinda Comvica, 2015
SWIFT Institute	2015	The Evolution of Third Party Payment Providers and Cryptocurrencies Under the EU's Upcoming PSD II and AMLD4	SWIFT Institute, 2015
Financial Services Community	2015	The Future of Financial Services How disruptive innovations are reshaping the way financial services are structured, provisioned and consumed	Financial Services Community, 2015
ESMA	2015	Final Report Guidelines on cross-selling practices	ESMA, 2015
BEUC	2015	BEUC RESPONSE to Consultation of the Joint Committee of the European Supervisory Authorities on Guidelines for Cross-Selling	BEUC, 2015
Soop-Tzi Tang and Christoph Müller	2015	The statutory right of withdrawal in e-commerce : comparative study of European law and Swiss law	Tang and Müller, 2015
European Commission	2015	FIN-NET — Rapport d’activité 2013 - 2014	European Commission, 2015
The Economist	2015	Who is Satoshi Nakamoto?	The Economist, 2015

Author	Year	Title	Reference
Insurance Europe	2016	Retail Financial Services consultation response	Insurance Europe, 2016
The European Consumer Organisation	2016	Green paper on retail financial services. Beuc response to the commission consultation	The European Consumer Organisation, 2016
The European Consumer Organisation	2016	Innovative uses of consumer data by financial institutions. Beuc response to eba consultation	The European Consumer Organisation, 2016
Đurđa Bolanča Kekez	2016	EU Consumer law - The past and the future	Kekez, 2016
European Commission	2016	Consumers' attitudes towards cross-border trade and consumer protection.	European Commission, 2016
Financial Services User Group	2016	Assessment of current and future impact of Big Data on Financial Services	Financial Services User Group, 2016
European Banking Federation	2016	European banking federation's response to the european commission green paper on retail financial services	European Banking Federation, 2016
European Banking Federation	2016	EBF Facts & Figures 2016	European Banking Federation, 2016
Sylvain Bouyon	2016	Better understanding of consumer's (financial) behaviour	Bouyon, 2016
BEUC	2016	Discussion Paper on Automation In Financial Advice	BEUC, 2016

Author	Year	Title	Reference
Financial Conduct Authority	2016	Smarter Consumer Communications	Financial Conduct Authority, 2016
European Commission	2016	Memorandum of Understanding on a Cross-Border Outof-Court Complaints Network for Financial Services	European Commission, 2016
ING	2016	Towards a European retail financial services market	ING, 2016
Eurobarometer	2016	Special Eurobarometer 446: Financial Products and Services	Eurobarometer, 2016
Accenture	2017	Financial providers: transforming distribution models for the evolving customer	Accenture, 2017
Michael Chapman and Anne Lefevre	2017	Behavioural economics and financial consumer protection	Chapman and Lefevre, 2017
Consumers International	2017	Banking on the future: an exploration of FinTech and the consumer interest	Consumers International, 2017
Deloitte	2017	Bank of the future	Deloitte, 2017
European Economy – Banks, Regulation, and the Real Sector	2017	FinTech and banking: friends or foes?	European Economy – Banks, Regulation, and the Real Sector, 2017
Andrei Vlasov	2017	The Evolution of E-Money	Vlasov, 2017
Central Bank of Ireland	2017	Discussion Paper on the Consumer Protection Code and the Digitalisation of Financial Services published	Central Bank of Ireland, 2017
CEPS	2017	The future of retail financial services	CEPS, 2017
European Commission	2017	FIN-NET — Rapport d’activité 2016	European Commission, 2017

Author	Year	Title	Reference
CEPS	2017	Impact assessment of substantial ep amendments introducing a commercial guarantee for lifespan	CEPS, 2017
IMF	2017	FinTech and Financial Services: Initial Considerations	IMF, 2017
IMF	2017	Fintech and Cross-Border Payments	IMF, 2017
Deloitte	2017	Fintech by the numbers: Incumbents, startups, investors adapt to maturing ecosystem	Deloitte, 2017
ITU	2017	Technology evolution and innovation in Digital Financial Services (DFS)	ITU, 2017
Capgemini	2018	World Payments Report	Capgemini, 2018
International Monetary Fund	2018	Money, Transformed. The future of currency in a digital world	International Monetary Fund, 2018
McKinsey&Company	2018	Global payments 2018: A dynamic industry continues to break new ground	McKinsey&Company, 2018
G20/OECD	2018	Policy Guidance Financial Consumer Protection Approaches in the Digital Age	G20/OECD, 2018
European Central Bank	2018	Virtual or virtueless? The evolution of money in the digital age	European Central Bank, 2018
Statista	2018	Total value of investments into Fintech companies in Europe from 1st quarter 2010 to 4th quarter 2017 (in billion U.S. dollars)	Statista, 2018
Elisabeth Rhyne	2018	Financial Services Through the Eyes of Customers	Rhyne, 2018

Author	Year	Title	Reference
M. Shirisha	2018	Digital Marketing Importance in the New Era	Shirisha, 2018
European Commission	2018	Consumer Markets Scoreboard: Making Markets Work for Consumers.	European Commission, 2018
InDret	2018	The Right of Withdrawal in Consumer Contracts: a comparative analysis of American and European law	InDret, 2018
Cemar Karakas and Carka Stamegna	2018	Defining a EU-framework for financial technology (FinTech): Economic perspectives and regulatory challenges	Karakas and Stamegna, 2018
Danish Competition and Consumer Authority	2018	Improving the effectiveness of terms and conditions in online trade	Danish Competition and Consumer Authority, 2018
European Central Bank	2018	Financial integration in Europe	European Central Bank, 2018
Alterinvesting	2018	European P2P Lending Market	Alterinvesting, 2018
Belgian Federal Public Service	2018	Belgian Tax Shelter	Belgian Federal Public Service, 2018
Porrini, D.,	2018	The effects of innovation on market competition: the case of the insurance comparison websites.	The effects of innovation on market competition: the case of the insurance comparison websites. Marketing and Management of Innovations, 2018, Issue 3
Accenture	2019	2019 Accenture Global Financial Services Consumer Study	Accenture, 2019
European Banking Authority	2019	EBA Consumer trends report	European Banking Authority, 2019

Author	Year	Title	Reference
European Commission	2019	The Digital Economy and Society Index (DESI)	European Commission, 2019
Ernst & Young	2019	NextWave Consumer Financial Services: financial subscriptions are coming	Ernst & Young, 2019
Joasia Luzak and Mia Junuzović	2019	Blurred Lines: Between Formal and Substantive Transparency in Consumer Credit Contracts	Luzak andJunuzović, 2019
BIS	2019	Annual Economic Report III. Big tech in finance: opportunities and risks.	BIS, 2019
Ernst & Young	2019	Global FinTech Adoption Index,	Ernst & Young, 2019
European Commission	2019	Behavioural study on the digitalisation of the marketing and distance selling of retail financial services	European Commission, 2019
European Commission	2019	Peer-to-peer lending	European Commission, 2019
Medium	2019	Overview of the Payments Industry	Medium, 2019
European Parliamentary Research Service Blog	2019	FinTech (financial technology) and the European Union: State of play and outlook	European Parliamentary Research Service Blog, 2019
AUSY	2019	L’évolution des opérations bancaires à distance	AUSY, 2019
Digital Watch	2019	E-Money and virtual currencies,	Digital Watch, 2019
Eurostat	2019	Gross value added and income by industry breakdowns	Eurostat, 2019
Eurostat	2019	National accounts employment data by industry	Eurostat, 2019

Author	Year	Title	Reference
Eurostat	2019	Final consumption expenditure of households by consumption purpose	Eurostat, 2019
Eurostat	2019	Digital inclusion data	Eurostat, 2019
Eurostat	2019	Internet use data	Eurostat, 2019
European Central Bank	2019	Statistics on EU population of MFIs	European Central Bank, 2019
FSMA	2019	Fintech Contact Point website	FSMA, 2019
London Economics	2013	Study on Means to Protect Consumers in Financial Difficulty: Personal Bankruptcy, Datio in Solutum of Mortgages, and Restrictions on Debt Collection Abusive Practices	London Economics (2013)

Annex 3 - Overview of stakeholders consulted

Table 11. Overview of stakeholders consulted

Member States	Name of organisation	Mode of consultation
Consumer associations (Total: 14)		
Finance Watch - EU		Phone interview
Federal Chamber of Labour – AT		Online survey
dTest (Czech Association of Consumers TEST) – CZ		Online survey
German Consumer Organisations (Verbraucherzentrale Bundesverband VZBV) – DE		Online survey + Follow up phone interview
ASUFIN (Asociación de Usuarios Financieros) – ES		Online survey + Follow up phone interview
Associazione Europea Consumatori Indipendenti – IT		Online survey
Alliance of Lithuanian Consumer Organisations – LT		Online survey
Authority for Consumer Protection – RO		Online survey
Bulgarian National Association Activ Consumer – BG		Online survey
DECO, Portuguese Association for Consumer Protection – PT		Online survey
UKSA - United Kingdom Shareholders Association – UK		Online survey
Fédération des Investisseurs individuels et des Clubs d'investissement (F2iC) – FR		Online survey
Consumer Association Lithuania – LT		Online survey
UFC-Que Choisir – FR		Online survey
National authorities (Total: 28)		
Ombudsman des assurances – BE		Online survey
The Ministry of Economy, Energy and Tourism - Consumer Policy Unit – BG		Online survey
Ministry of Energy, Commerce, Industry and Tourism – CY		Online survey
Ministry of Finance – CZ		Online survey
Consumer Protection Board – EE		Online survey
Direction générale de la concurrence, de la consommation et de la répression des fraudes – FR		Online survey
Consumer Rights Protection Centre – LV		Online survey

Ministry of Economics of Republic of Latvia – LV	Online survey
Central Bank of Slovakia – SK	Online survey
Ministry of Finance of the Slovak Republic – SK	Online survey
Konsumentverket - The Swedish Consumer Agency – SE	Online survey
Autoriteit Financiele Markten – NL	Online survey
Danish Consumer Ombudsman – DK	Online survey
Banco de España – ES	Online survey
Banco de Portugal – PT	Online survey
Ministry of Justice – EE	Online survey
Ministry of Justice – FI	Online survey
CMVM – Comissão do Mercado de Valores Mobiliários – PT	Online survey
Malta Competition and Consumer Affairs Authority – MT	Online survey
Ministry of Economy and Business – ES	Online survey
Office of Competition and Consumer Protection – PL	Online survey
Central Bank of Lithuania – LT	Online survey
Department of Finance – IE	Online survey
Autorité de Contrôle Prudentiel et de Résolution – FR	Online survey
Ministry of Economy – BE	Online survey
Banca d'Italia – IT	Online survey
Financial Supervision Commission – BG	Online survey
Commission de Surveillance du Secteur Financier – LU	Online survey
Industry Representatives (Total: 21)	
BIPAR - The European Federation of Insurance Intermediaries – EU	Phone interview
European Mortgage Federation (EMF) - EU	Phone interview
EBF - European Banking Federation – EU	Online survey + Follow up phone interview
The European Association of Cooperative Banks (EACB) – EU	Online survey

Association of Mutual Insurers and Insurance Cooperatives in Europe (AMICE) – EU	Online survey
European Network of Credit Unions (ENCU) – EU	Online survey
Eurofinas – EU	Online survey
Czech Banking Association – CZ	Phone interview
German Insurance Association (GDV) – DE	Online survey
Associazione Nazionale Promotori Finanziari (ANASF) – IT	Online survey
Swedish Bankers' Association – SE	Online survey
Slovenian Insurance association (SZZ) – SI	Online survey
Europejska Federacja Doradców Finansowych Polska (EFFP) – PL	Online survey
Assuralia – BE	Online survey
Finance Finland – FI	Online survey
The French Banking Federation – FR	Online survey
Association Française des sociétés Financières – FR	Online survey
Febelfin – BE	Online survey
Erste Bank Oesterreich – AT	Online survey
Hellenic Bank Association – EL	Online survey
Finance Denmark – DK	Online survey
Financial providers (Total: 8)	
Nagelmackers – BE	Online survey
Crelan Bank – BE	Online survey
Klarna – *NA*	Online survey
Hargreaves Lansdown – UK	Online survey
DKB - AT	Online survey
GLS Bank - DE	Online survey
TransferWise - UK	Online survey
NA - LT	Online survey

Annex 4 - Results of the consumer survey

The consumer survey ran from 6-30 August 2019. The survey, which took approximately 15 minutes to complete, was carried out online and targeted consumers in eight Member States[560] (Poland, Czechia, Sweden, Finland, France, Italy, Germany, the Netherlands).

Consumers answered the survey in their own language, which gathered first-hand information on their experiences of searching and buying financial services at a distance.

A minimum of five answers per type of financial product/service per country was set in order to ensure that the survey covered all types of products in all countries.

Reliability of the results

The consumer survey was carried out by Dynata a company with a reach that encompasses 62 million consumers and business professionals globally and with an extensive library of individual profile attributes collected through surveys. Dynata serves nearly 6,000 market research, media and advertising agencies, publishers, consulting and investment firms and corporate customers in North America, South America, Europe, and Asia-Pacific. The company provides robust survey services and solutions that ensure precise, trustworthy quality data.

Survey Questionnaire

The survey questionnaire was developed by ICF (together with DG JUST) supported by data experts from Dynata and was piloted to ensure clarity of the questionnaire and robustness of the approach and results. Afterwards it was translated to the languages of each of the eight Member States covered by the survey and again reviewed to ensure that the meaning of the questions after translation was the intended one.

Sourcing

Dynata's online sample consists of different proprietary panel brands across the globe and almost all panelists are re-contactable. Furthermore, Dynata sample does not use a "river" approach. Participants come from sources with which we have a relationship and access to detailed information about the source. All Dynata survey participants go through rigorous quality controls before being included in any sample. Dynata's multi-sourced recruitment model increases reach and capacity, improves consistency and minimizes bias. The model:

- Delivers a more representative universe via recruitment to diverse panels
- Leverages multiple contact modes (not just emails) in directing participants into the stream
- Offers a variety of rewards suited to different motivations for taking part.
- Promotes sample sustainability and consistency because we do not rely on only a few large sources
- Helps optimize the participant experience because people participate within a compatible framework, leading to lower attrition rates, less panelist fatigue and better data quality.

Double opt-in for panelists

Dynata's proprietary panels use double opt-in recruitment and each Dynata participant has agreed to take part in research. The privacy policy can be found here: https://www.surveysampling.com/about/privacy-policy/

Participant validation

Dynata's participant validation consists of a suite of quality control procedures including digital fingerprinting, address verification against USPS databases and third-party verification on request.

Moreover, Dynata uses technology that creates a digital identity for each participant. This prevents duplicates from entering a project by using "watermarking" to identify a device.

[560] The countries targeted in the consumer survey were selected so as to cover the two countries with the highest incidence of online sales of financial services (in absolute terms) in each of the four regions as adopted by the UN (Eastern Europe, Northern Europe, Southern Europe, Western Europe). Survey response targets for each country were based on the size of the population of each Member State.

Segmentation

There were 1,043 answers in total for the consumer survey. The percentage of respondents per country was defined based on the overall population of the country. The majority of respondents (26%) were aged between 35-44 years, followed by 45-54 years (23%) and 25-34 years (22%). Only 2% of respondents were aged between 65-74 years and there were no respondents over 75 years. 55% of respondents were female and 45% were male.

Figure 32. Distribution of answers by country

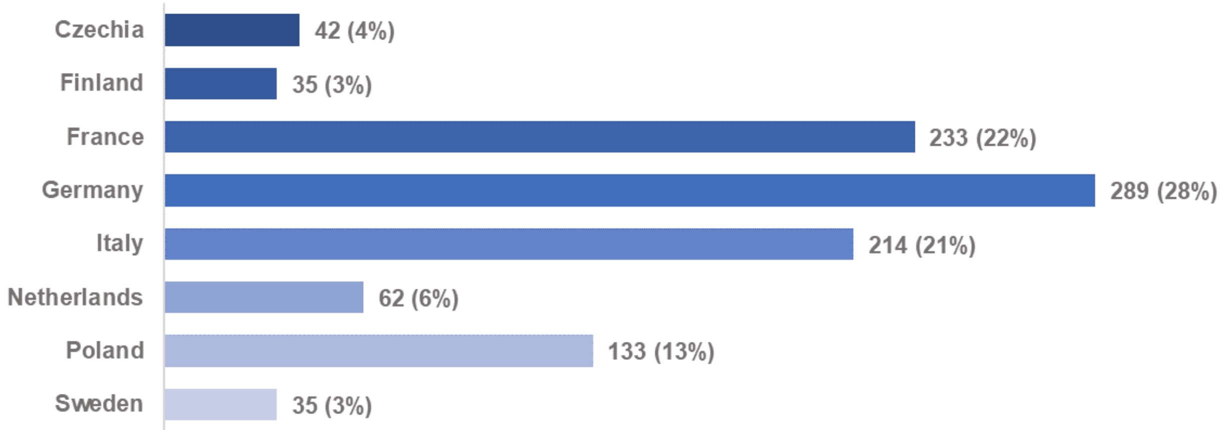


Figure 33. Distribution of answers by age

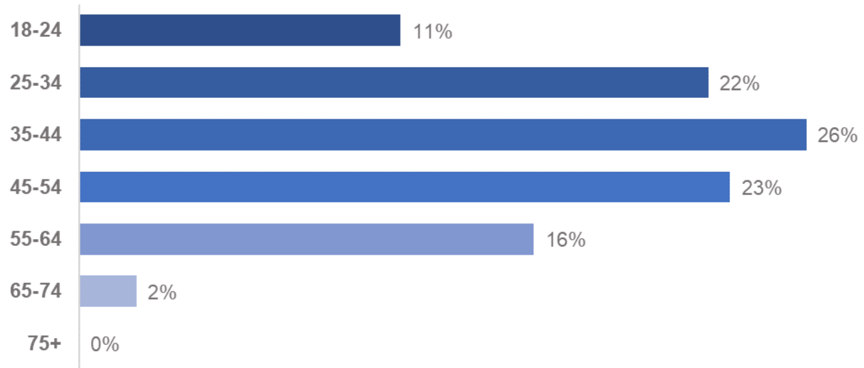
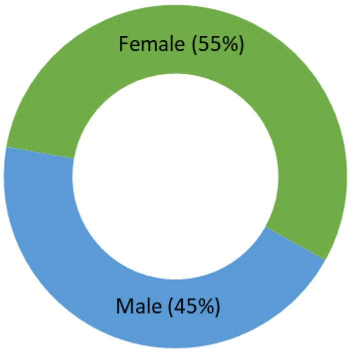


Figure 34. Distribution of answers by gender

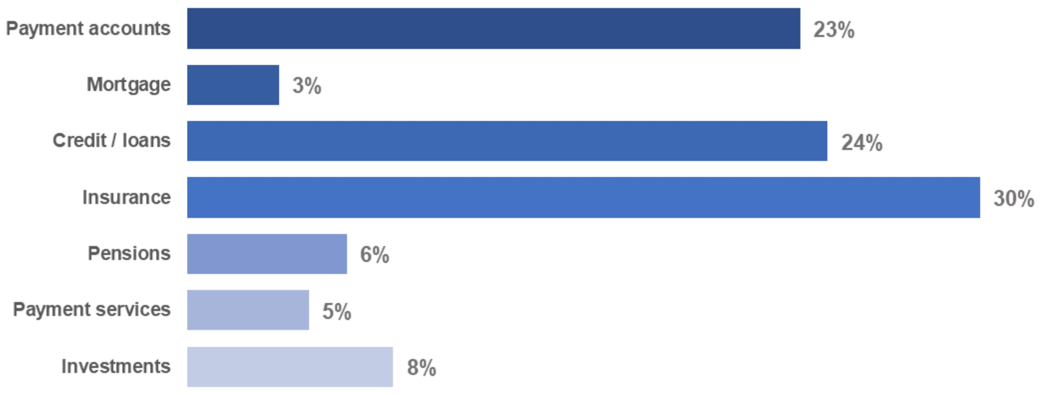


Part 1 of the questionnaire – considered purchasing

III.1. In the past five years, have you considered purchasing (i.e. did you search or receive information on) any of the following financial services through means of <u>distance communication</u>?

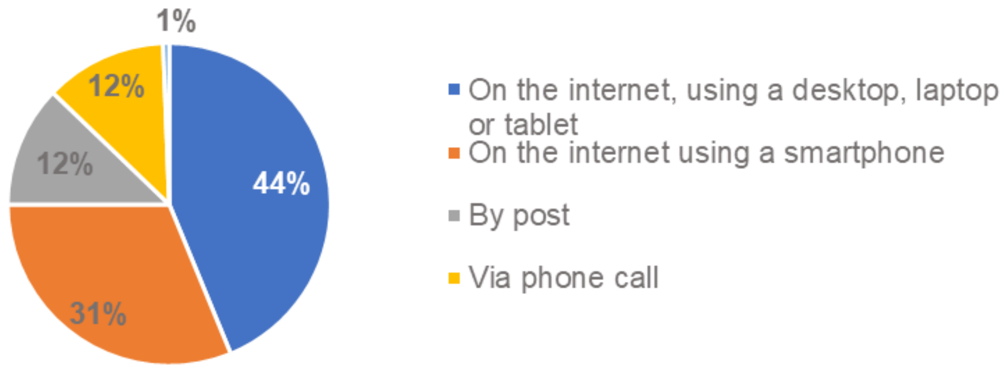
In total, the respondents considered purchasing a minimum of 15,000 services, using a variety of distance means of communication, in the past five years (an average of three per respondent per year).

Figure 35. Financial services that consumers considered purchasing through a distance means of communication (in the past five years)



The most popular financial service was insurance, which was chosen by 30% of respondents. The second most popular service was credit/loan (24%), followed by payment accounts (23%). The least popular services were pensions, payment services and mortgages, which were chosen by 6%, 5% and 3% of respondents, respectively.

Figure 36. Distance means used to search (and possibly) purchase financial services (in the past five years)



The majority of respondents (44%) chose to search and possibly purchase a financial service on the internet, using a desktop, laptop or tablet. The second most popular means of search/purchase was on the internet, using a smartphone (31% of respondents). Finally, 12% of respondents preferred to search/purchase a service by post and another 12% bought via phone call. No significant differences were identified in the means used between services.

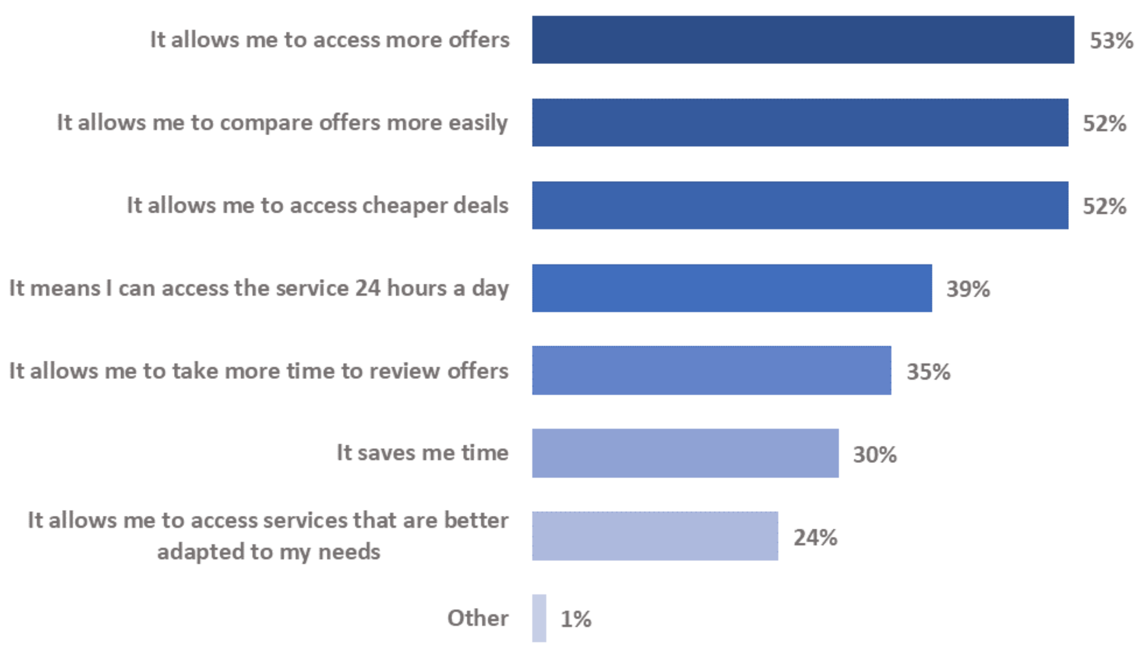
Table 12. Distribution searches (and possible purchases) of financial services per type of service and mean of communication (in the past five years)

	On the internet, using a desktop, laptop or tablet	On the internet, using a smartphone	By post	Via phone call	Other	Total
Payment accounts	11%	7%	2%	2%	0%	**23%**
Mortgage	1%	1%	1%	1%	0%	**3%**
Credit / loans	10%	8%	3%	3%	0%	**24%**
Insurance	13%	9%	4%	5%	0%	**30%**
Pensions	3%	2%	1%	1%	0%	**6%**
Payment services	2%	2%	0%	0%	0%	**5%**
Investments	3%	3%	1%	1%	0%	**8%**
TOTAL	**44%**	**31%**	**12%**	**12%**	**1%**	**100%**

Question III.2. Why did you consider purchasing a financial service using distance means?

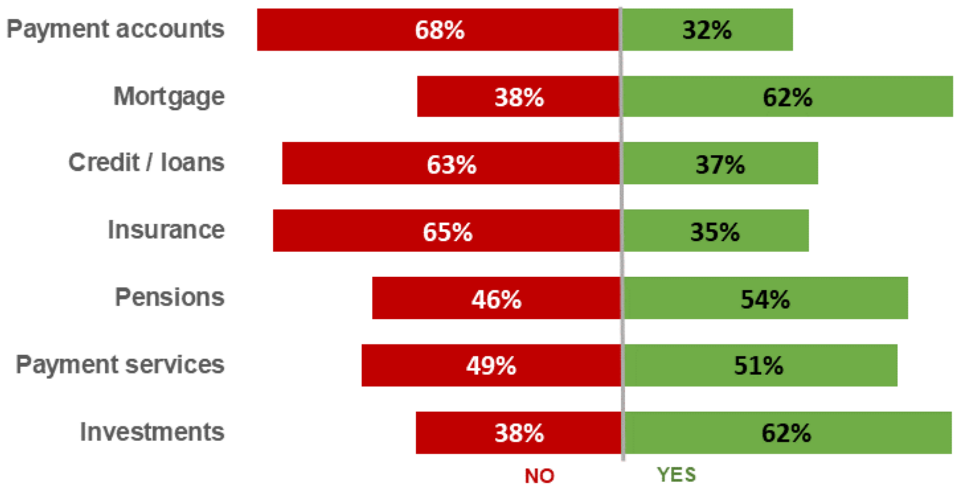
Answers did not differ significantly across services, with the top three reasons being the same for all services/products, i.e. 'allowing respondents access to more offers', 'easy comparison of offers' and 'access to cheaper deals'.

Figure 37. Reasons to consider purchasing a financial service using distance means



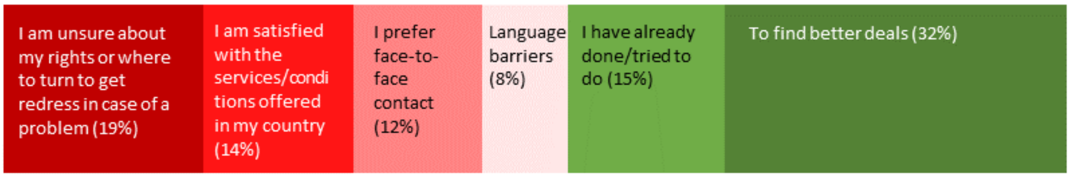
Question III.3. Would you consider buying a financial service/product at a distance from another EU country?

Figure 38. Would you consider purchasing a financial product at a distance from another EU country



More than 60% of respondents indicated that they would not consider purchasing payment accounts (68%), insurance (65%) and credit/loans (63%) from another EU country. On the other hand, 62% of respondents replied that they would purchase a mortgage or investment from another EU country.

Figure 39. Reasons for considering/not considering buying a financial service/product at a distance from another EU country



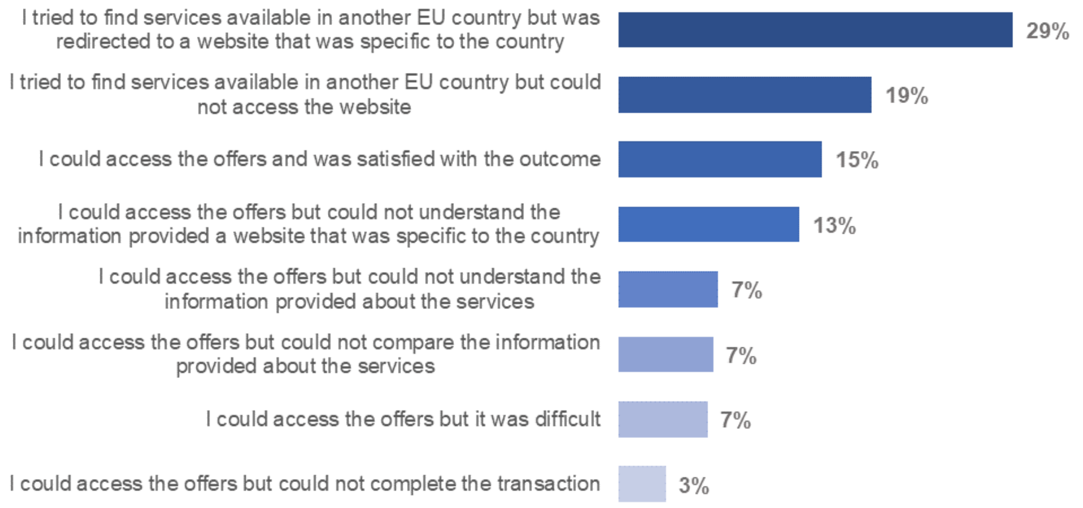
Overall, 32% would consider purchasing financial services at a distance from another EU country to find better deals, with 15% having already done so or tried to do so.

The main reason indicated by respondents for not considering purchasing financial product at distance from another EU country was uncertainty about their rights or where to turn to get redress in case of a problem (19%).

Question III.3a If you have already considered purchasing a financial service from a provider based in another EU country, how would you describe your experience?

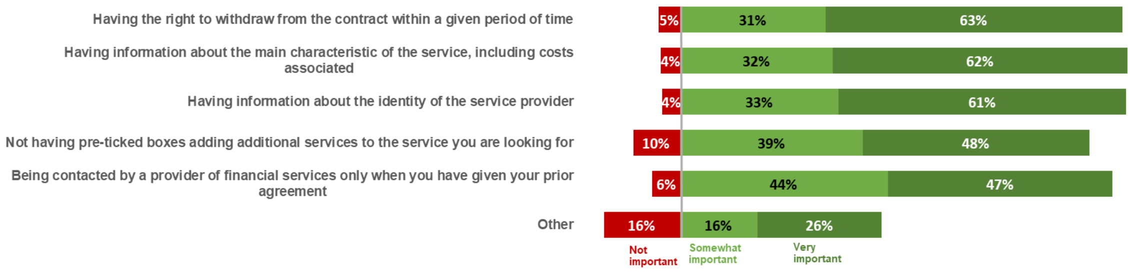
With the exception of 'payment accounts', the most common experience (29% of respondents) across all other financial products was *'I tried to find services available in another EU country but was redirected to a website that was specific to the country where I live'.* Respondents looking for insurance were most satisfied. The second most common experience (19% of respondents) was that they tried to find services available in another EU country but could not access the website. Only 3% of respondents reported that they could access the offer but could not complete the transaction.

Figure 40. Experience with cross-border purchase of financial services at a distance



Question III.4. When you are looking for a financial service using a means of distance communication, how important do you consider the following:

Figure 41. When you are looking for a financial service using a means of distance communication, how important do you consider the following:

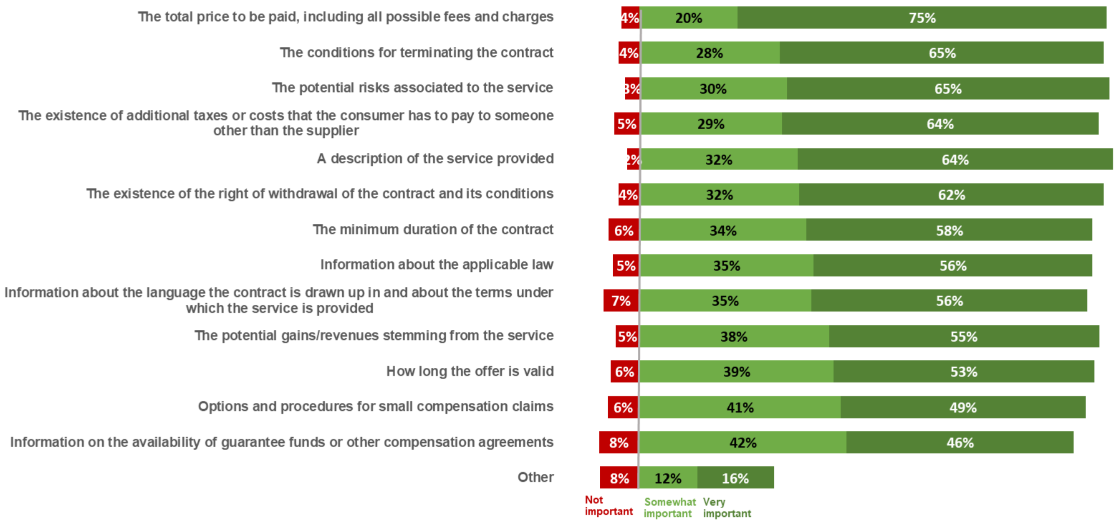


More than 60% of the respondents considered it very important to have the right to withdraw from the contract within a given period of time (63%), information about the main characteristic of the service (62%) and information on the identity of the service provider (61%).

Question III.5. Thinking about the service itself, what information would you consider important to have in order to make your decision?

The total price to be paid, including all possible fees and charges, was the most important information for respondents in making their decision, with 75% considering it very important. Information on the conditions for terminating the contract and the potential risks associated with the service were also very important (65% of respondents).

Figure 42. What information would you consider important to have in order to make your decision?

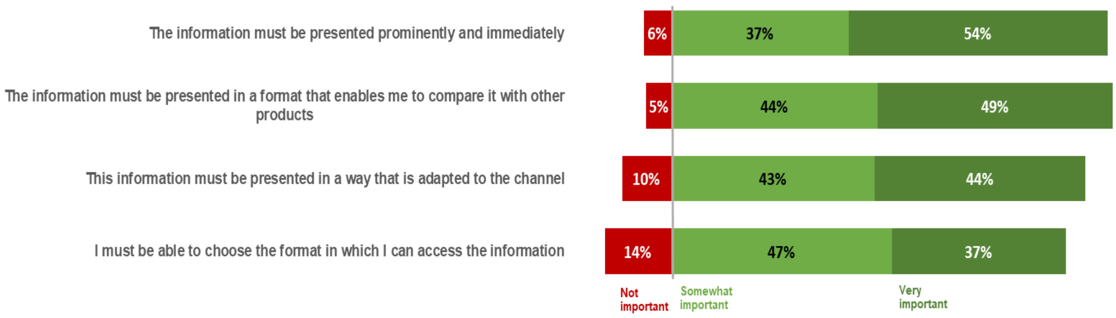


Question III.6. How important would you consider the following statements on the presentation of information?

54% of respondents consider it very important to have information presented prominently and immediately, compared to 37% who consider it somewhat important and 6% who do not consider it important.

The statement that the information must be presented in a format that enables them to compare it with other products is considered very important by 49% of respondents, somewhat important by 44%, and not important by 5%.

Figure 43. How important would you consider the following statements on the presentation of information?



Question III.7. While you were considering purchasing the financial services (i.e. prior to the purchase), was the following information available/made available to you?

On average, information was made available on the website for 39% of respondents, 25% were sent the information by the provider without them having to request it and 15% had to request it. 10% of respondents were not provided with information.

Table 13. Was the following information available/made available to you?

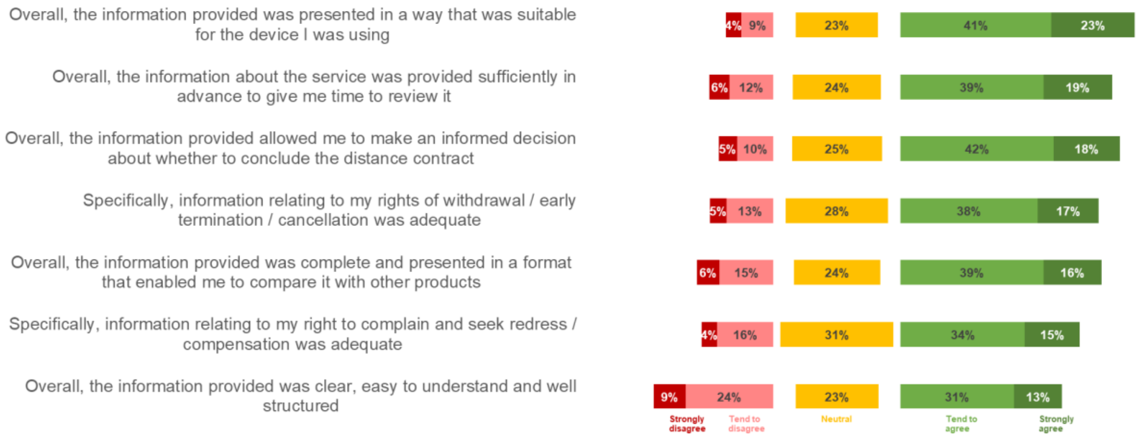
	Yes, on the website	Yes, the provider sent it without	Yes, but only on request	No	Don't know

		having to request it			
Description of the service provided	52%	26%	13%	2%	6%
The total price to be paid, including all possible fees and charges	45%	27%	18%	5%	6%
The potential risks associated to the service	31%	25%	19%	14%	10%
The potential gains/revenues stemming from the service	35%	28%	15%	11%	11%
The existence of additional taxes or costs that the consumer has to pay to someone other than the supplier	31%	24%	18%	15%	12%
How long the offer is valid	44%	24%	14%	9%	9%
The existence of the right of withdrawal from the contract and its conditions	43%	28%	12%	7%	9%
The minimum duration of the contract	46%	26%	11%	8%	8%
The conditions for terminating the contract	41%	28%	14%	8%	9%
Information about the applicable law (e.g. whether your home country's laws were taken as the basis for the contract	34%	25%	15%	12%	15%
Information about the language the contract is drawn up in and about the terms under which the service is provided	38%	24%	12%	13%	13%
Options and procedures for small compensation claims (e.g. out of court claims)	31%	23%	15%	16%	14%
Information on the availability of guarantee funds or other compensation agreements	32%	23%	15%	15%	15%
Other	9%	6%	6%	13%	22%

Question III.8. If you had access to information regarding the financial services, to what extent do you agree with the following statements?

The majority of respondents agreed with the listed statements on information regarding financial services. Only a small fraction reported that they strongly disagreed with them.

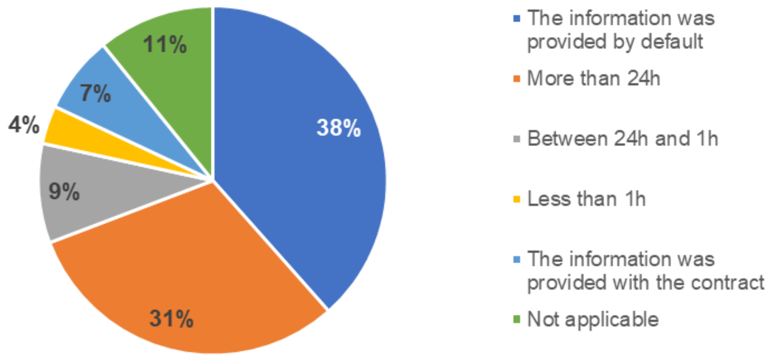
Figure 44. To what extent do you agree with the following statements?



Question III.9. How much time did you have to review the information about the offer and the provider before you had to sign the contract?

69% of respondents stated that they had enough time to read the information and understand the offer or seek further information. 22% indicated that the time allocated was not enough and they felt pressured into making a quick decision.

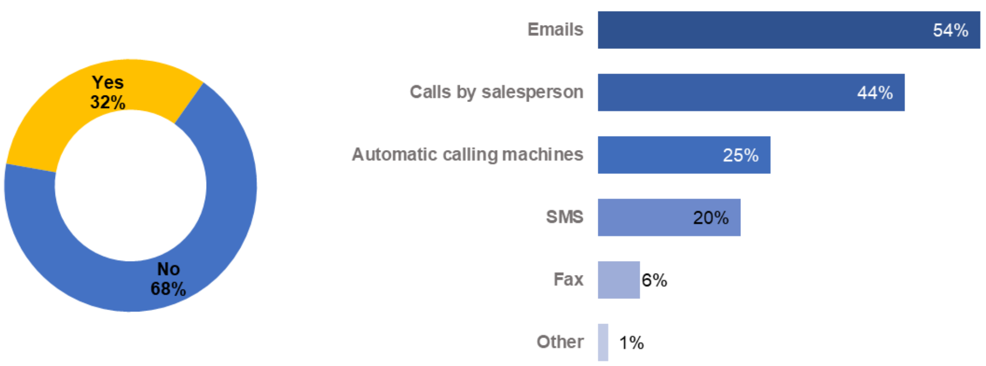
Figure 45. Amount of time to review the information about the offer and the provider before having to sign the contract



Question III.10. Did you receive unsolicited communications about retail financial services (e.g. without having given your prior agreement)?

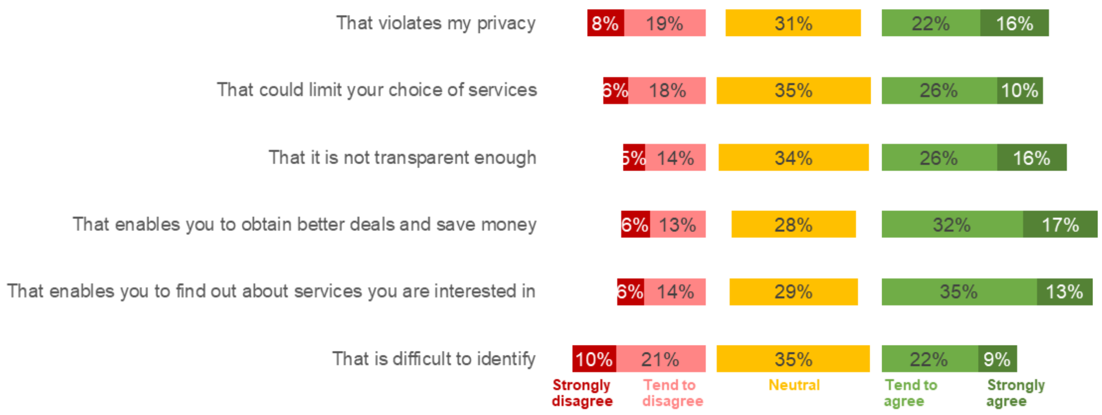
Overall, 68% of respondents indicated that they did not receive unsolicited communications about retail financial services without giving their prior agreement. Of the respondent that received unsolicited communication, 54% received unsolicited emails, followed by 44% who received unsolicited calls from salespersons. Automatic calling machines and SMS were received by 25% and 20% of respondents, respectively.

Figure 46. Did you receive unsolicited communications about retail financial services (e.g. without having given your prior agreement)?



Question III.11. Thinking about tailored advertisements and offers of financial services based on your online and offline activity (e.g. websites browsed, shopping behaviour, etc.), is it something:

Figure 47. Thinking about tailored advertisements and offers of financial services based on your online and offline activity (e.g. websites browsed, shopping behaviour, etc.), is it something:

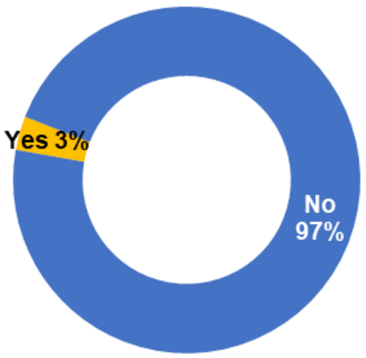


Around 30% of respondents had a neutral opinion about the statements on tailored advertisement. While around 48% consider these advertisements as enabling them to obtain better deals and save money and/or to find about services they are interested in, between 36-42% consider them to limit their choice of services, violate their privacy and/or are insufficiently transparent.

Question III.12. Have you had any issue with unsolicited services (e.g. been provided a financial service at a distance and been asked to pay for it, without you actually soliciting the service in the first place)?

Overall, 97% of respondents reported that they have not had issues with paying for unsolicited services.

Figure 48. Have you had any issue with unsolicited services (e.g. been provided a financial service at a distance and been asked to pay for it, without you actually soliciting the service in the first place)?



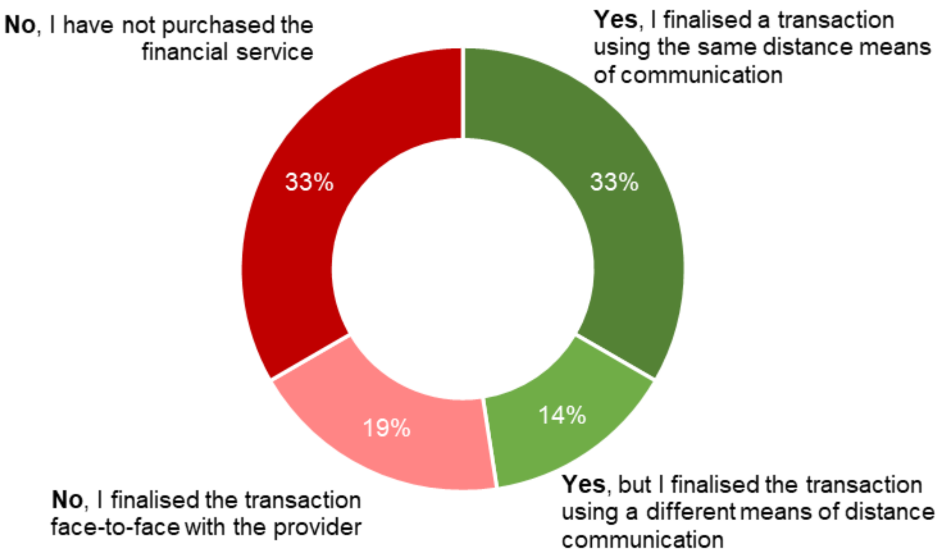
Question III.13. Overall, how satisfied would you say you are with the possibility of buying financial services at a distance from various Member States?

Overall, 65% of respondents reported that they are satisfied with the possibility of buying financial services at a distance from another Member States, while 11% are not satisfied.

Figure 49. How satisfied would you say you are with the possibility of buying financial services at a distance from various Member States?

Question III.14. Did you finalise the purchase of a financial service using a distance means of communication?

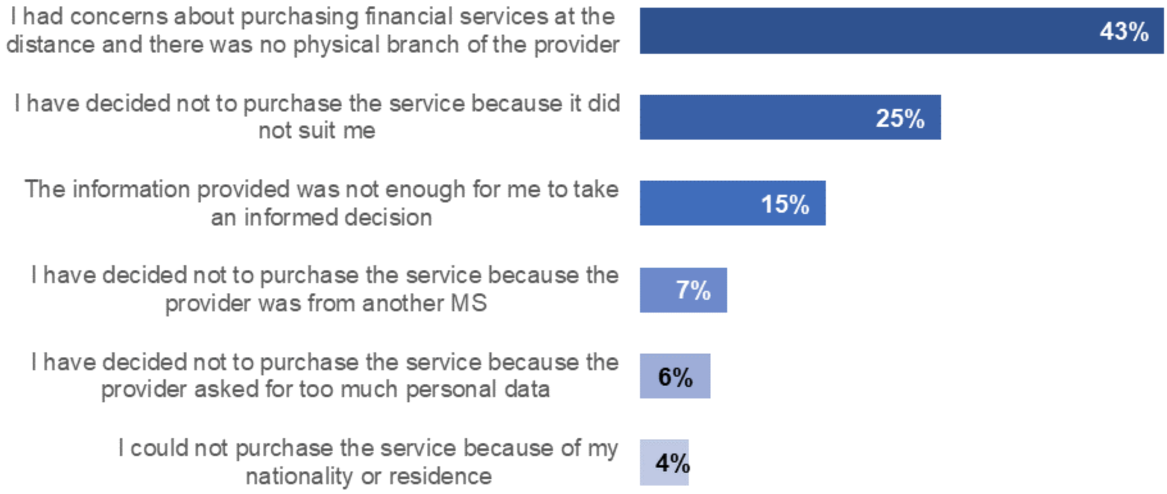
Figure 50. Did you finalise the purchase of a financial service using a distance means of communication?



47% of respondents reported that they finalised the purchase of a financial service using a distance means of communication, of which 30% used a different means of distance communication for that finalisation. 33% of respondents reported that they did not purchase the service and 19% reported that they finalised the transaction face-to-face with the provider.

Of the 33% of respondents that decided not to purchase the financial service, their reasons varied.

Figure 51. Why did you decide not to purchase the financial service?



The main reason that respondents chose not to purchase the service was because they had concerns about purchasing it at distance and the provider did not have a physical branch. Not having enough information to make an informed decision was an important reason for 15% of respondents. Only 4% could not purchase the service because of their nationality or residence.

Part 2 questionnaire – purchased financial service in past five years

Only 496 (47%) of the respondents replied to the second part of the questionnaire.

Question IV.1 Over the last five years, what financial service(s) have you contracted/purchased from a financial provider at a distance?

Table 14. Have you engaged in a distance contract for any of the following services?

Service	Have you engaged in a distance contract for any of the following services?			
	Yes, from a domestic provider	*Yes, from a foreign provider*	*No*	*Don't know / not applicable*
Payment accounts				
Checking / current accounts	52%	16%	31%	2%
Savings accounts	47%	15%	36%	2%
Money / wealth management	32%	13%	49%	5%
Other	22%	11%	37%	21%
Mortgage				
Mortgage loans	28%	11%	55%	6%
Credit / loans				
Credit cards	48%	12%	36%	4%
Personal loans	41%	10%	44%	5%
Revolving credits	27%	10%	56%	6%
Home Renovation loans	23%	10%	59%	8%
Home equity loans / lines of credit	24%	9%	59%	8%

Payday loans	22%	11%	59%	8%
Other	16%	7%	45%	23%
Insurance				
Home / property	42%	11%	43%	4%
Car insurance	57%	12%	28%	3%
Travel insurance	41%	11%	43%	5%
Mortgage protection	25%	9%	59%	7%
Income protection	21%	10%	62%	7%
Life insurance	36%	11%	49%	5%
Critical illness	22%	9%	62%	6%
Other personal insurance	19%	7%	42%	23%
Pensions				
Personal / self-invested pension scheme	25%	9%	59%	7%
Other pension scheme	16%	6%	46%	22%
Payment services				
Payment services	34%	15%	47%	4%
Investments				
Bonds, Stocks, Futures and Options	28%	12%	54%	6%
ICOs/crypto-assets	18%	11%	65%	7%
Other investments	13%	7%	43%	23%

Over the last five years respondents purchased 5223 financial services/products using a distance mean of communication. The most contracted/purchased financial service at a distance was insurance (31%), followed by credit/loans (27%) and payment accounts (15%). The least contracted/purchased services were payment services and mortgages (4%) and pensions (7%).

Figure 52. Distribution of the total distance purchases in the last 5 years per type of product

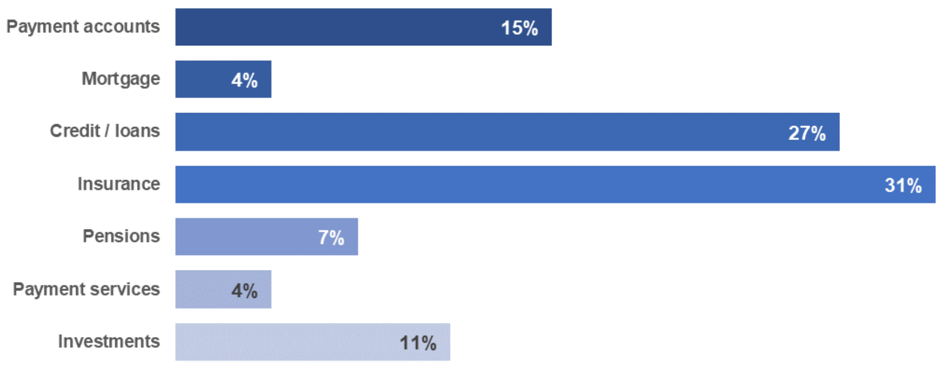
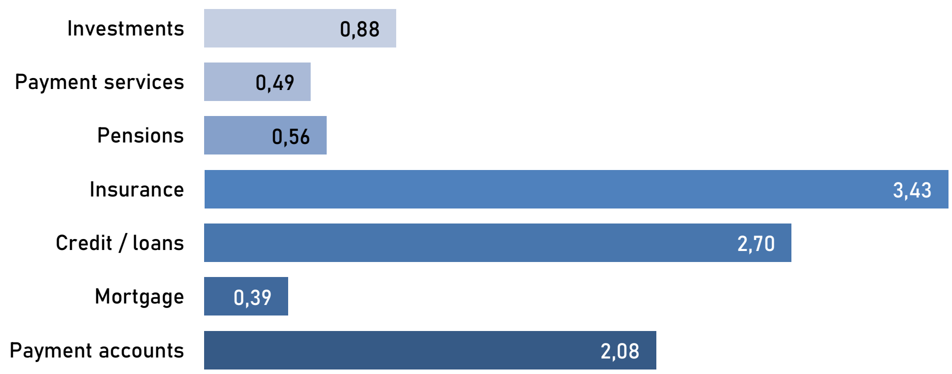
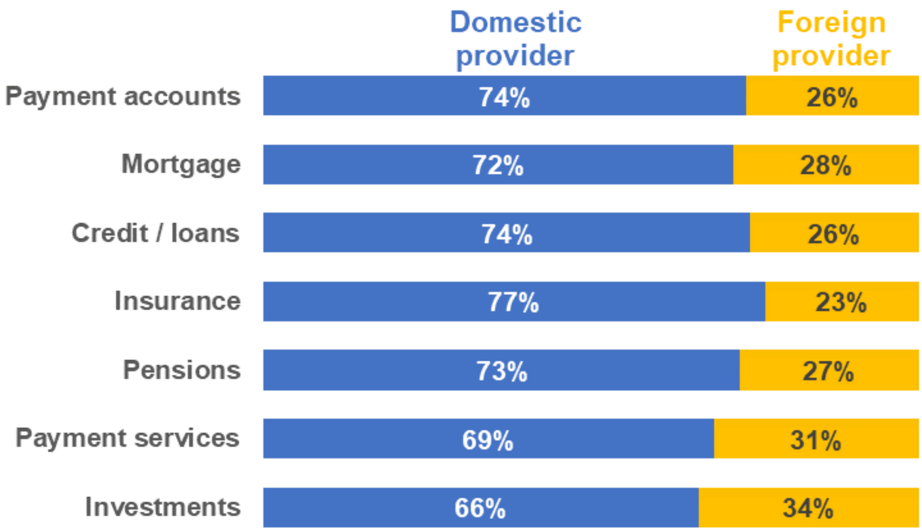


Figure 53. Average number of contracts per type of product/service



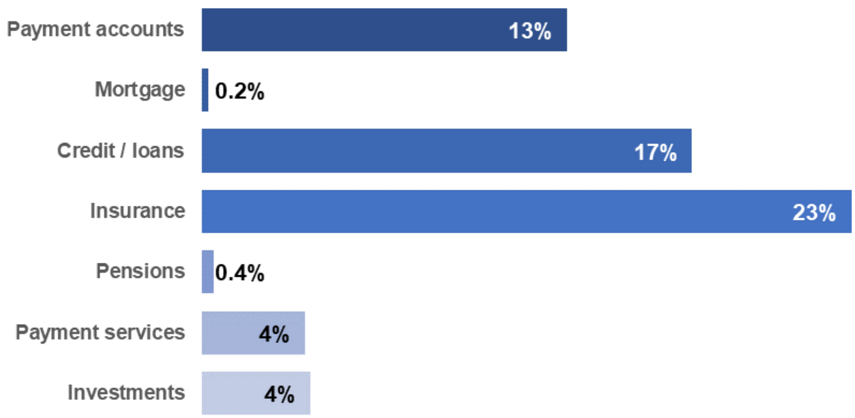
The majority of respondents preferred to negotiate their contract with providers located domestically.

Figure 54. Location of the provider



Question IV.2. Of the financial services above, what was the last service you purchased through a distance contract?

Only 61% of the respondents indicated the last service they had purchased.



23% of respondents had last bought insurance, followed by credit/loans (17%) and payment accounts (13%). Payment services and investments were each purchased by 4% of respondents. Finally, less than 1% of respondents had last purchased a mortgage or pension.

Question IV.2.a How was/were the distance contract(s) negotiated?

28% of the contracts were negotiated using more than one means of distance communication.

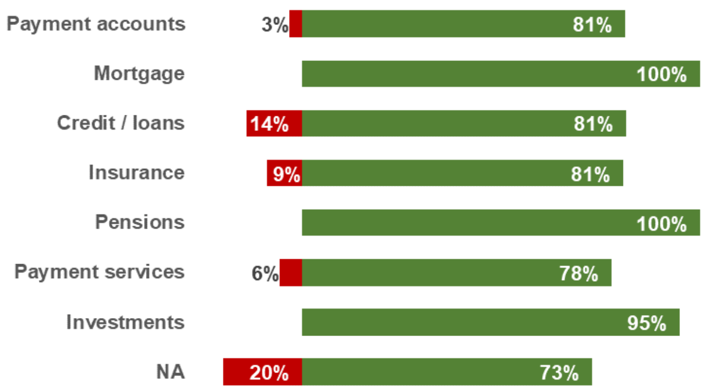
Overall, a majority of respondents (39%) chose to purchase a service online, followed by 26% who purchased by phone and 22% by email. 10% decided to purchase a service by post. Only 1% chose fax to purchase a service and another 1% chose another means of purchase.

Figure 55. How was/were the distance contract(s) negotiated?

Question IV.3. Were you made fully aware that you had the right to withdraw from the contract you initiated with the provider (within a certain number of days)?

78% of the respondents were made aware that they had the right of withdrawal, while 13% were not.

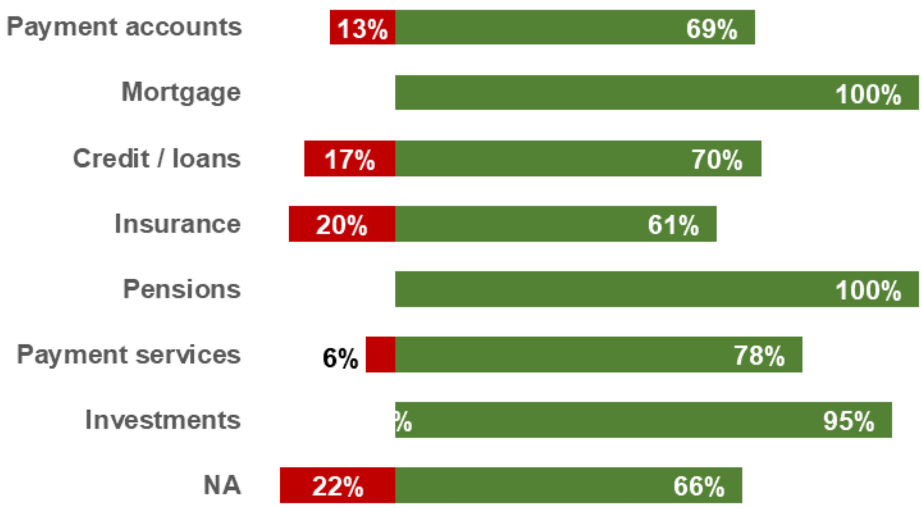
Figure 56. Were you made fully aware that you had the right to withdraw from the contract you initiated with the provider (within a certain number of days)?



Question IV.5. Were you fully informed of the extent of costs/charges you would incur in case of withdrawal within the cancellation period?

The majority of respondents were informed about the extent of the cost/charges.

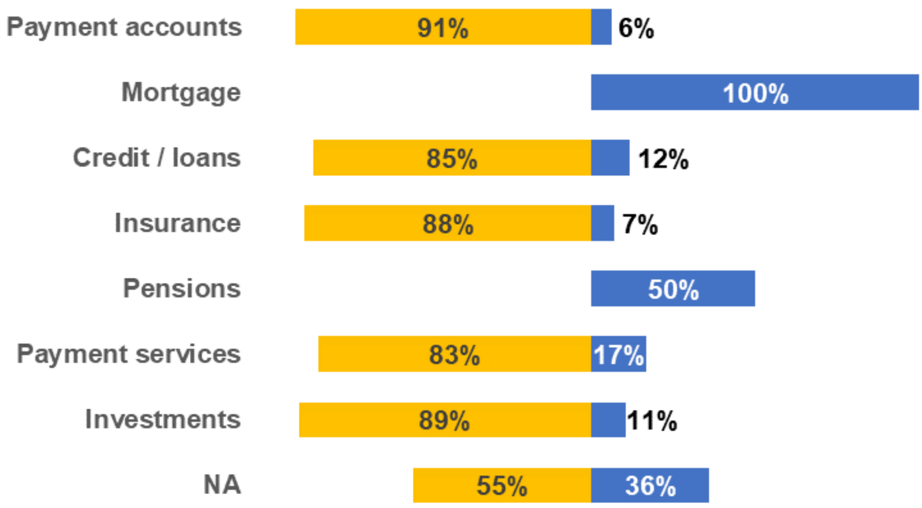
Figure 57. Were you fully informed of the extent of costs/charges you would incur in case of withdrawal within the cancellation period?



Question IV.6. Did you cancel the contract within the period covered by the right of withdrawal?

20% of respondents cancelled the contract within the period covered by the right of withdrawal, with only 2% experiencing problems.

Figure 58. Did you cancel the contract within the period covered by the right of withdrawal?



Question IV.7. Did you experience any problems with the financial service you contracted?

Only eight of the 496 respondents experienced problems with the financial services contracted (2%), two of which had purchased investments and two credit/loans.

Of those, six raised a formal complaint with the provider (following their internal procedures), one raised a formal complaint with a third party (such as an ombudsman, consumer organisation or consumer protection agency) and one did nothing. Of the eight respondents that experienced a problem:

- Five spent money trying to solve the problem (an average of EUR 55 per respondent);
- Half spent less than one hour trying to solve the problem, two spent between one and four hours and the other two spent more than four hours;
- Half felt moderately emotionally stressed, two felt quite emotionally stressed and the other two were extremely emotionally stressed.

For 50% of the respondents, the issue was closed without being resolved, while 25% are still waiting for resolution. Of the two respondents that saw their issues solved, one was satisfied with the result (awarded compensation) while the other was not.

Annex 5 - Results of the mystery shopping exercise

Introduction

This Annex presents the results of the mystery shopping exercise[561].

The main objective of the mystery shopping was to gain insight into the practical application of the DMFSD in some of the product areas it covers, by replicating the consumer experience in searching and purchasing financial services at a distance, both in a domestic and cross-border context.

400 mystery shops were carried out in 10 Member States (40 mystery shops in each country), namely Poland, Czechia, Sweden, Finland, France, Italy, Germany, the Netherlands, Belgium and Ireland. The countries targeted in the mystery shopping exercise were selected in order to a) cover the two countries with the highest incidence of online sales of financial services (in absolute terms) in each of the four regions, as adopted by the UN (Eastern Europe, Northern Europe, Southern Europe, and Western Europe), and b) account for the language of the countries.

The mystery shopping exercise covered five types of financial products/services (see Table 15). These were based on the current and expected evolution of the market share of the various product categories (in terms of cross-border and domestic sales through distance means of communication), as well as the need to cover a variety of products/services and challenges to selling/purchasing financial products through distance means.

Table 15. Overview of financial products/services and estimated number of mystery shops

Specific product	Product category	Total mystery shops
Low-interest credit cards	Credit cards	80 (8 per Member State)
Current account	Banking	80 (8 per Member State)
Money transfer	Payment services	80 (8 per Member State)
Stocks	Investment	80 (8 per Member State)
Travel insurance	Insurance	80 (8 per Member State)

Source: ICF compilation

Four mystery shopping scenarios were developed for each product and each country:

- **Online scenario**: search and purchase simulation on the domestic website (not on an app) of traditional, intermediaries and FinTech financial providers, using desktop computer, laptop, tablet or smartphone.
- **Smartphone app scenario**: search and purchase simulation using smartphone apps of traditional and FinTech financial providers.
- **Cross-border scenario:** search and purchase simulation on the website of traditional or FinTech financial providers in another Member State, using desktop computer, laptop, tablet or smartphone.
- **Phone call scenario:** search and purchase simulation via a phone call made by traditional financial providers to the mystery shoppers at the request of the latter.

The mystery shopping exercise was developed in collaboration with the survey partner Bare International and carried out in September 2019.

[561] When presenting the results, we often indicate percentages. Sometimes the presented percentages do not add to 100% because we had to round up/down the numbers.

The 15 questionnaires to be used in the mystery shopping (three different questionnaires per product – one for phone mystery shops, one for cross-border mystery shops and one for the remaining mystery shops) were drafted in collaboration with DG JUST, along with a list of financial providers to be covered.

Overall results

This section provides a summary of the results of the mystery shopping exercise by scenario and by type of provider on:

A. Experience of finding and receiving information on the product

- A1. Was it easy to search for different services on the provider's website?
- A2. Was this information easy to find?
- A3. Was this information easy to understand?

B. Information provided about the supplier

- *B1. As part of the purchase process, what information about the supplier was provided to you?*
- *B2. How was this information communicated to you?*
- *B3. Was this information easy to understand?*
- *B4. Was this information easy to find?*

C. Information on the terms and conditions

- *C1. What information about the terms/conditions of a prospective contract with the provider was communicated to you?*
- *C2. Was this information easy to understand?*
- *C3. Was this information easy to find?*
- *C4. How was the information on terms and conditions communicated to you?*

D. Overall experience

- *D1. How would you assess the amount of information provided?*
- *D2. How would you assess the quality of information provided to you?*
- *D3. How would you assess the extent of assistance offered by the provider?*

Table 16 provides an overview of the segmentation of the 400 mystery shops.

Table 16. Segmentation of the mystery shops

	Total	Total (%)	Traditional	Consolidator/broker	FinTech
Cross-border	**98**	**25%**	95	2	1
Smartphone app	**57**	**14%**	7	0	40
Online	**194**	**49%**	95	48	51
Phone	**51**	**13%**	51	0	0
Total (%)			62%	13%	25%
Total	**400**		**249**	**50**	**101**

In 45% of those 400 mystery shops, the mystery shoppers reached a stage where they could get information about the financial product, provider and terms and condition (see Table 17). This happened for a variety of reasons described in detail for each of the product types (see relevant sections below), including:

- Financial providers did not call the mystery shopper in the phone scenario;
- Only existing customers could search and apply for a product;
- Difficulties downloading the app or requirement to pay for it;
- Website was blocked (8% of cross-border cases) and/or the mystery shopper was redirected to a domestic or global website (22% of the cross-border cases);
- Application was rejected at pre-application stage because the mystery shopper did not meet one or more requirements;
- Not possible to apply online and the mystery shopper was told to go to branch or call (in 34% of the mystery shops, excluding those in the phone scenario).

Table 17. Segmentation of the mystery shops that were not finalised at pre-application stage

	Total	Total (%)	Traditional	Consolidator/broker	FinTech
Cross-border	**31**	**17%**	98	0	0
Smartphone app	**24**	**13%**	2	0	55
Online	**111**	**61%**	93	42	59
Phone	**15**	**8%**	51	0	0
Total (%)			**56%**	**13%**	**31%**
Total	**181**		**101**	**24**	**56**

A. Experience of finding and receiving information on the product

A1. Was it easy to search for different services on the provider's website?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	101	**62%**	11	16	74
Quite easy	43	**26%**	13	5	25
Quite difficult	12	**7%**	5	0	7
Very difficult	8	**5%**	1	3	4
N	164		30	24	110

By type of provider

	Total	Traditional	Consolidator /broker	FinTech
Very easy	62%	60%	63%	64%
Quite easy	26%	30%	25%	21%
Quite difficult	7%	10%	4%	5%
Very difficult	5%	1%	8%	9%
N	164	84	24	56

A2. Was this information easy to find?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	67	41%	8	14	45
Quite easy	75	45%	18	6	51
Quite difficult	9	5%	2	0	7
Very difficult	14	8%	3	4	7
N	165		31	24	110

By type of provider

	Total	Traditional	Consolidator /broker	FinTech
Very easy	41%	40%	42%	2300%
Quite easy	45%	48%	50%	39%
Quite difficult	5%	6%	0%	7%
Very difficult	8%	6%	8%	13%
N	165	85	24	56

A3. Was this information easy to understand?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	73	46%	10	12	47
Quite easy	64	40%	11	7	41

Quite difficult	13	8%	1	2	6
Very difficult	10	6%	1	3	6
N	160		23	24	100

Phone scenario

	Yes	No
Information was provided spontaneously by the salesperson	11	4
Information provided on each service was comprehensive and clear	13	2

N=15

By type of provider

	Total	Traditional	Consolidator /broker	FinTech
Very easy	45%	49%	46%	36%
Quite easy	40%	37%	42%	41%
Quite difficult	9%	8%	4%	11%
Very difficult	6%	1%	8%	13%
N	160	84	24	56

B. Information provided about the supplier

B1. As part of the purchase process, what information about the supplier was provided to you?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Identity of the supplier	153	85%	25	17	99	12
Main business of the supplier	122	71%	23	13	80	6
Geographical address at which the supplier is established (and any other relevant geographical address)	106	61%	22	8	71	5
Identity of the sales representative, if applicable	17	0%	2	0	9	6
Geographical address at which the sales representative is based, if applicable	19	5%	6	0	11	2

Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	10	3%	2	0	7	1
Capacity in which the professional is acting (i.e. the role played by the professional during the purchase process), if applicable	16	8%	4	0	11	1
Geographical address at which the professional is based, if applicable	25	5%	3	2	19	1
Public or trade register on which the supplier features	57	21%	11	2	42	2
Supplier's registration number or an equivalent means of identification in the public or trade register	57	24%	11	1	43	2
Particulars of the supervisory authority regulating the supplier's activities	55	37%	12	2	39	2
N	181		31	24	111	15

By type of provider

	Total	**Traditional**	**Consolidator/broker**	**FinTech**
Identity of the supplier	85%	84%	96%	80%
Main business of the supplier	67%	69%	63%	66%
Geographical address at which the supplier is established (and any other relevant geographical address)	59%	61%	54%	55%
Identity of the sales representative, if applicable	9%	13%	8%	4%
Geographical address at which the sales representative is based, if applicable	10%	15%	4%	5%
Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	6%	8%	4%	2%
Capacity in which the professional is acting (i.e. the role played by the professional during the purchase process), if applicable	9%	12%	4%	5%

Geographical address at which the professional is based, if applicable	14%	14%	13%	14%
Public or trade register on which the supplier features	31%	38%	25%	23%
Supplier's registration number or an equivalent means of identification in the public or trade register	31%	39%	25%	21%
Particulars of the supervisory authority regulating the supplier's activities	30%	34%	21%	29%
N	181	101	24	56

B2. How was this information communicated to you?

By scenario

	Total	Total	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	153	85%	29	20	104	0
Information was emailed separately	20	11%	2	2	14	2
Information was sent by post	3	2%	1	0	2	0
Information was shared during a scheduled call with a representative	14	8%	0	1	0	15
N	179		31	23	110	15

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	86%	82%	96%	89%
Information was emailed separately	11%	12%	8%	11%
Information was sent by post	2%	3%	0%	0%
Information was shared during a scheduled call with a representative	3%	8%	0%	2%
N	179	99	25	55

B3. Was this information easy to understand?

By scenario

	Total	Total	Cross-border	Smartphone app	Online	Phone
Very easy	75	42%	13	9	48	5
Quite easy	78	44%	12	8	49	9
Quite difficult	13	7%	4	1	8	0
Very difficult	13	7%	2	5	5	1
N	179		31	23	110	15

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
Very easy	42%	42%	46%	40%
Quite easy	44%	47%	42%	40%
Quite difficult	8%	8%	4%	9%
Very difficult	7%	4%	8%	11%
N	179	100	24	55

B4. Was this information easy to find?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	45	22%	5	8	32
Quite easy	86	58%	20	9	57
Quite difficult	18	11%	2	1	15
Very difficult	15	8%	4	5	6
N	164		31	23	110

Phone scenario

	Yes	No
Information was provided spontaneously	14	1

Salesperson sought the consent of the mystery shopper before sharing information about the desired product, the supplier, the distance contract, and forms of redress	10	5
Salesperson informed mystery shopper that additional information was available on request.	10	5

N=15

By type of provider

	Total	Traditional	Consolidator /broker	FinTech
Very easy	27%	27%	21%	31%
Quite easy	52%	55%	58%	45%
Quite difficult	11%	9%	13%	13%
Very difficult	9%	8%	8%	11%
N	164	85	24	55

C. Information on the terms and conditions

C1. What information about the terms/conditions of a prospective contract with the provider was communicated to you?

By scenario

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Existence of a right of withdrawal	110	61%	19	11	71	9
Permitted timeframe for withdrawal	84	47%	12	9	55	8
Conditions for exercising the right of withdrawal	83	46%	13	7	55	8
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	71	40%	13	6	48	4
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	58	32%	9	7	37	5

Language(s) in which the contractual terms and conditions, and any prior information will be made available	42	23%	6	3	31	2
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	38	21%	8	4	23	3
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	49	27%	7	3	36	3
N	179		31	23	110	15

* 32 mystery shoppers did not receive any of the above information

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
Existence of a right of withdrawal	61%	61%	67%	57%
Permitted timeframe for withdrawal	47%	50%	29%	29%
Conditions for exercising the right of withdrawal	46%	48%	29%	32%
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	40%	42%	25%	41%
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	32%	33%	25%	34%
Language(s) in which the contractual terms and conditions, and any prior information will be made available	23%	20%	33%	25%
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	21%	22%	8%	25%
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	27%	29%	25%	25%
N	179	101	24	56

* 32 mystery shoppers did not receive any of the above information

C2. Was this information easy to understand?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Very easy	43	29%	9	4	26	4
Quite easy	71	48%	8	7	48	8
Quite difficult	24	16%	4	3	16	1
Very difficult	9	6%	2	3	4	0
N	147		23	17	94	13

By type of provider

	Total	Traditional	Consolidator /broker	FinTech
Very easy	29%	35%	24%	21%
Quite easy	48%	42%	62%	53%
Quite difficult	16%	18%	10%	16%
Very difficult	6%	5%	5%	9%
N	147	83	21	43

C3. Was this information easy to find?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	33	22%	6	4	23
Quite easy	59	40%	9	7	43
Quite difficult	30	20%	5	3	22
Very difficult	25	17%	7	5	13
N	147		27	19	101

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
Very easy	21%	22%	17%	21%
Quite easy	41%	34%	57%	46%
Quite difficult	20%	26%	13%	15%

Very difficult	17%	17%	13%	19%
N	147	76	23	48

C4. How was the information on terms and conditions communicated to you? *(select all that apply)*

By scenario

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	128	87%	22	14	90	2
Information was emailed separately	18	12%	3	2	10	3
Information was sent by post	1	1%	0	0	1	0
Information was shared during a scheduled call with a representative	11	7%	0	1	1	9
N	147		23	17	94	13

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	86%	83%	100%	86%
Information was emailed separately	12%	12%	14%	11%
Information was sent by post	1%	1%	0%	0%
Information was shared during a scheduled call with a representative	7%	12%	0%	2%
N	147	82	21	44

D. Overall experience

D1. How would you assess the amount of information provided?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	13	7%	5	4	4	0
2 - Fair	19	11%	2	2	13	2
3 - Good	72	40%	15	10	41	6
4 - Very good	53	29%	6	6	37	4
5 - Excellent	23	13%	3	1	16	3
N	180		31	23	111	15

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
1 - Poor	7%	5%	8%	11%
2 - Fair	11%	10%	4%	15%
3 - Good	40%	42%	46%	35%
4 - Very good	29%	30%	21%	33%
5 - Excellent	13%	14%	21%	7%
N	180	101	24	55

D2. How would you assess the quality of information provided to you?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	10	6%	3	4	3	0
2 - Fair	22	12%	4	2	14	2
3 - Good	68	38%	16	10	36	6
4 - Very good	54	30%	3	5	43	3
5 - Excellent	26	14%	5	2	15	4
N	180		31	23	111	15

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
1 - Poor	6%	3%	8%	9%

2 - Fair	12%	12%	8%	15%
3 - Good	38%	40%	25%	40%
4 - Very good	30%	29%	42%	27%
5 - Excellent	14%	17%	17%	9%
N	180	101	24	55

D3. How would you assess the extent of assistance offered by the provider?

By scenario

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	12	7%	4	4	4	0
2 - Fair	28	16%	4	6	17	0
3 - Good	77	43%	15	7	48	8
4 - Very good	44	24%	5	6	30	4
5 - Excellent	20	11%	3	0	12	3
	180		31	23	111	15

By type of provider

	Total	Traditional	Consolidator/broker	FinTech
1 - Poor	7%	5%	8%	9%
2 - Fair	15%	12%	13%	22%
3 - Good	43%	47%	46%	36%
4 - Very good	25%	26%	21%	25%
5 - Excellent	10%	11%	13%	7%
N	180	101	24	55

Mystery shopping 1: Credit cards

In this section we present the results of the mystery shopping exercise where mystery shoppers simulated the acquisition of a credit card. As mentioned before, when presenting the results, we often indicate percentages. Sometimes the presented percentages do not add to 100% because of the need to round up/down numbers.

1.1 Overview

In this section we provide an overview of the respondents' profile, a summary of the segmentation per scenario (i.e., online, cross-border, smartphone app and phone) and a list of the questions asked to the mystery shoppers that simulated the acquisition of a credit card.

1.1.1 Respondent profile

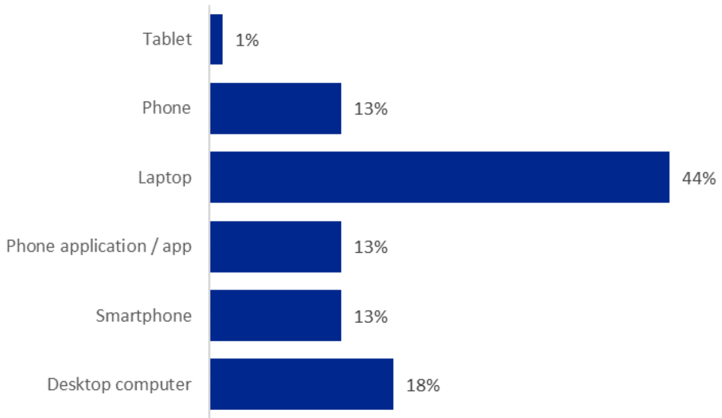
Table 18. Mystery shops by type of scenario and type of financial provider

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	20	95%	5%	0%
Smartphone app	10	0%	0%	0%
Online	40	50%	23%	28%
Phone	10	100%	0%	0%
Total (%)		63%	13%	25%
Total	**80**	**50**	**10**	**20**

Table 19. Mystery shops by country

Member State	Count
Belgium	8
Czechia	8
Finland	8
France	8
Germany	8
Ireland	8
Italy	8
Netherlands	8
Poland	8
Sweden	8
Total	**80**

Figure 59. Device used in mystery shops



1.1.2 Scenarios

The segmentation per scenario was as follows:

- **Online**: 40 mystery shops were carried out in 10 countries. Of those, 50% were traditional financial providers, 23% were consolidators/brokers and the remaining 28% were FinTechs. Mystery shoppers in this scenario primarily used a laptop (55%) or a smartphone (25%). In 18% of cases a desktop computer was used and in 3% a tablet was used.
- **Cross-border**: 20 mystery shops were carried out, 95% on traditional financial providers and 5% on consolidators/brokers. Of those, 13 used a laptop and seven used a desktop computer.
- **Smartphone app**: 20 mystery shops were carried out, 10% on traditional financial providers and 90% on FinTechs.
- **Phone**: 10 mystery shops were carried out on traditional financial providers in 10 countries.

1.1.3 Questions

The following table provides an overview of the questions asked to the mystery shoppers and for which the results are presented in the next sections.

Table 20. Questions in the mystery shopping on credit cards

Stage/ Question		Scenario
A. Stage: access		
Q1.	Were you required to register online or create an online account to deal with the provider via their website?	Online
Q2.	Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?	Cross-border
Q3.	Did you have to register/create an online account with the provider via their phone application?	Smartphone app
Q4.	Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?	Smartphone app
Q5.	Was the provider's smartphone app free of charge? Did you have to be an existing customer to log in to the app?	Smartphone app
Q6.	How long after completing and sending the online request form did the call take place?	Phone
B. Stage: awareness		
B1. Prerequisites/eligibility requirements specified for buying a credit card from the provider		

Q7.	Were any prerequisites/eligibility requirements specified for buying a credit card from the provider?	Online, Smartphone App and Cross-border
Q8.	What was the minimum age (in years) required to buy a credit card from the provider?	All
Q9.	Were you required to be resident in the provider's home country, or to hold a specific nationality, to buy a credit card from the provider?	Cross-border
Q10.	Were you required to be an existing customer to be able to buy a credit card from the provider?	All
B2. Pre-application process		
Q11.	How was the pre-application information gathered and processed?	Online, Smartphone App and Cross-border
B3. Decision on pre-application		
Q12.	If your pre-application was rejected, what reasons were given by the provider for their decision?	All
C. Stage: consideration and purchase		
C1. Easy-to-use website and offers received		
Q13.	Was it easy to search for different money transfer services on the provider's website?	Online, Smartphone App and Cross-border
Q14.	How many different credit cards were offered to you for purchase?	All
C2. Information on credit cards		
Q15.	What information (about each credit card) was provided to help you to compare and select the credit card that best suited your needs?	All
Q16.	What common additional features were advertised/provided with the credit cards?	All
Q17.	Was this information easy to find?	Online, Smartphone App and Cross-border
Q18.	Was this information easy to understand?	Online, Smartphone App and Cross-border
Q19.	How was this information communicated to you?	Online, Smartphone App and Cross-border
Q20.	Was the information provided spontaneously by the salesperson?	Phone
Q21.	Was the information on each service comprehensive and clear?	Phone
Q22.	When did you receive the information?	Phone
Q23.	How easy was to compare the different types of credit card on the basis of the information provided by the salesperson?	Phone
Q24.	When did you advise the salesperson/provider of your preferred option?	Phone

D. Other information disclosure during the purchase process	
D1. Information required from the mystery shopper	
Q25. As part of the purchase process, what information was required from you?	All
Q26. At what stage(s) of the purchase process was this information required from you?	All
D2. Information received about the provider	
Q27. As part of the purchase process, what information about the supplier was provided to you?	All
Q28. At what stage(s) of the purchase process was this information provided to you?	All
Q29. How was this information communicated to you?	All
Q30. Was this information easy to understand?	All
Q31. Was this information easy to find?	Online, Smartphone App and Cross-border
Q32. Was the information provided spontaneously?	Phone
Q33. Did the salesperson seek your consent before sharing information about the desired product, the supplier, the distance contract, and forms of redress?	Phone
Q34. Did the salesperson inform you that additional information was available on request?	Phone
D3. Information relating to the terms/conditions of a prospective contract	
Q35. As part of the purchase process, which information relating to the terms/conditions of a prospective contract with the provider was communicated to you?	All
Q36. Was this information easy to understand?	All
Q37. How was this information communicated to you?	All
Q38. Was this information easy to find?	Online, Smartphone App and Cross-border
Q39. At what stage(s) of the purchase process was this information provided to you?	Online, Smartphone App and Cross-border
Q40. Were you informed that the terms and conditions could change?	All
E. Overall customer experience	
Q41. How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q42. How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q43. How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q44. When did you receive the final contract from the provider?	All
Q45. How did you receive the final contract from the provider?	All

Q46.	How much time were you given to read and sign the contract?	All
Q47.	How would you describe your overall customer experience in a few sentences?	All
Q48.	Do you have any suggestions for improving the service or customer experience?	All

1.2 Results

This section presents the results of the mystery shopping exercise per scenario.

A. Stage: access

Online

Q1. Were you required to register online or create an online account to deal with the provider via their website?

In nine mystery shops, the mystery shopper had to register/create an account before they could continue. In one case, registration was optional and in the remaining 30 cases (75%) registration was not required.

Two mystery shops (out of 38) required that the shopper be an existing customer. Where that was not the case, they ended at this stage.

Cross-border

Q2. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?

In four mystery shops, the non-domestic website of the provider was blocked, with the mystery shoppers redirected to the domestic or global website of the provider in three cases. For these four mystery shoppers (out of 20), the mystery shop ended at this stage.

Smartphone app

Q3. Did you have to register/create an online account with the provider via their phone application?

For seven out of the 19 mystery shops, it was compulsory to register. The remainder did not oblige the shopper to register.

Q4. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?

Seven mystery shoppers (79%) considered it ‘very easy’ to find and download the provider's smartphone app. One mystery shopper considered it ‘quite easy’, while one considered it ‘quite difficult’ and another said it was ‘very difficult’.

In two cases, the mystery shoppers did not manage to download the app and therefore could not continue the mystery shop.

Q5. Was the provider's smartphone app free of charge? Did you have to be an existing customer to log in to the app?

In eight mystery shops, the app was free for all customers. In the remaining two, it was free for basic services but a payment fee applied for add-on services for all users.

In one case, the mystery shop had to enter a client number to log into the app and therefore could not continue the mystery shop.

Phone

Q6. How long after completing and sending the online request form did the call take place?

Six of the 10 mystery shoppers did not receive a follow-up call within the timeframe set for the research. For these mystery shoppers, the mystery shop ended at this stage.

The remaining four received a phone call up to five working days after submitting the request online.

B. Stage: awareness

4.5.3 B1. Prerequisites/eligibility requirements specified for buying a credit card from the provider

Table 21. Q7: Were any prerequisites/eligibility requirements specified for buying a credit card from the provider? (select all that apply)

	Total	Cross-border	Smartphone app	Online	Phone*
Age/date of birth	25%	13%	83%	19%	N/A
Country of residence	25%	6%	83%	22%	
Nationality	7%	6%	17%	3%	
Marital status	2%	0%	0%	3%	
Existing relationship with provider (e.g. accounts already held)	10%	0%	17%	14%	
Income	0%	0%	0%	0%	
Proof of identity	3%	6%	17%	0%	
Proof of address	3%	6%	17%	0%	
Online registration with the provider	31%	6%	83%	31%	
Online registration with a third-party (e.g. an online dealing platform)	25%	13%	83%	19%	
Contact details/other personal details	25%	6%	83%	22%	
N	**64**	**16**	**8**	**40**	

N=64, * In all four cases, the salesperson verified the eligibility criteria

The following additional data were requested:

- Sex, birth city, tax residence and phone number;
- Bank statement from within the last three months;
- Obligation to open a bank account;
- Being employed for six months at least;
- Proof of income;
- Telephone number.

In the case of comparison websites there were no requirements.

Table 22. Q8: Minimum age (in years) required to buy a credit card from the provider

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
No information	55	74%	50%	100%	93%	50%
18 years	13	18%	50%	0%	8%	50%
N	68		16	8	40	4

Table 23. Q9: Were you required to be resident in the provider's home country, or to hold a specific nationality, to buy a credit card from the provider? (for cross-border only)

	Not possible to fill in residence information		Required to hold specific nationality	
Yes	5	31%	0	0%
No	11	69%	16	100%
N	16	16	16	16

Table 24. Q10: Were you required to be an existing customer to be able to buy a credit card from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	6	8%	2	2	4	0
No	62	92%	1	6	36	4

4.5.4 B2. Pre-application process

Table 25. Q11: How was the pre-application information gathered and processed?

	Total	Total (%)	Cross-border*	Smartphone app	Online
I provided my details online, they were processed automatically and I received an instant response on whether I could apply	33	52%	6	4	23
I provided my details via an online form and received a response by email at a later date	2	3%	0	0	2
I provided my details via an online form and received a response by post at a later date	1	2%	0	0	1
It was not possible to start the application online and a contact number was provided to apply by phone	14	22%	5	2	7
It was not possible to start the application online and a branch address was provided to apply in person	13	20%	5	2	6
It was not possible to apply	1	2%	0	0	1

N=64

4.5.5 B3. Decision on pre-application

Only 40 mystery shoppers managed to submit their application successfully (six from the cross-border scenario, four from the smartphone app scenario, 23 from the online scenario and four from the phone scenario).

Of those, 13 (36%) had their applications rejected:

- 4 out of 6 (67%) from the cross-border scenario;
- 8 out of 23 (34%) from the online scenario;
- 1 out of 4 (25%) from the phone scenario.

Table 26. Q12: If your pre-application was rejected, what reasons were given by the provider for their decision? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
One or more of the eligibility requirements were not met	6	46%	3	0	2	1
Incorrect information was provided	0	0%	0	0	0	0
Insufficient information was provided	8	62%	1	0	6	1
Other	6	46%	3	0	2	1

N=13

26 mystery shoppers in the online scenario successfully submitted their application online, while one could not proceed further.

C. Stage: consideration and purchase

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	**6**	100%	0%	0%
Smartphone app	**4**	0%	0%	100%
Online	**25**	48%	16%	36%
Phone	**4**	100%	0%	0%
Total (%)		56%	10%	33%
Total	**39**	**22**	**4**	**13**

For the various reasons outlined above:

- Of the 40 mystery shops in the online scenario, only 25 (63%) got to this stage;
- Of the 20 mystery shops in the cross-border scenario, only six (30%) got to this stage;
- Of the 10 mystery shops in the smartphone app scenario, only four (40%) got to this stage;
- Of the 10 mystery shops in the phone scenario, four (40%) got to this stage.

4.5.6 C1. Easy-to-use website and offers received

Table 27. Q13: Was it easy to search for different credit cards on the provider's website?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Very easy	25	71%	4	2	19	N/A
Quite easy	7	20%	1	1	5	N/A
Quite difficult	2	6%	1	0	1	N/A
Very difficult	1	3%	0	1	0	N/A

**N/A: the question was not asked in that scenario*

N= 35

Table 28. Q14: How many different credit cards were offered to you for purchase?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
<5 different types of credit card	32	91%	5	3	20	4
5-10 different types of credit card	3	9%	1	1	1	0
>10 different types of credit card	4	11%	0	0	4	0

N=39

4.5.7 C2. Information on credit cards

Table 29. Q15: What information (about each credit card) was provided to help you to compare and select the credit card that best suited your needs? (select all that apply)

	Total		Cross-border	Smartphone app	Online	Phone
Credit card limit	24	62%	4	1	19	2
Minimum monthly repayments	13	33%	3	1	9	1
Representative annual percentage rate (APR)	15	38%	5	1	9	1
Balance transfer offers	9	23%	2	0	7	0
Interest-free purchase offers	8	21%	1	0	7	1
Any fees, charges, and expenses payable to the	18	46%	3	0	15	0

provider (e.g. for balance transfers)						
Any additional costs relating to the use of a distance means of purchase payable to the provider	5	13%	0	0	5	0
Any other fees, charges, and expenses not payable to the provider but that may apply	8	21%	0	0	8	0
Any restrictions to the period or amount of time for which the information provided is valid	3	8%	0	0	3	0

N=39

Figure 60. Q16: What common additional features were advertised/provided with the credit cards?

	Total		Cross-border	Smartphone app	Online	Phone
Air mileage rewards	8	21%	2	1	4	1
Cashback	12	31%	1	0	9	2
Travel insurance	18	46%	5	1	10	2
Car rental insurance	2	5%	1	0	1	0
Other insurance	13	33%	4	0	8	1
Retail vouchers	6	15%	1	0	5	0
Other vouchers	4	10%	1	0	3	0
Purchase protection	16	41%	3	0	12	1
Price protection	5	13%	0	0	5	0
Extended warranties	7	18%	1	0	6	0
Other features	13	33%	1	2	8	2

N=39

Online, cross-border and smartphone app scenarios

Table 30. Q17: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	16	46%	3	1	12
Quite easy	15	43%	3	2	10
Quite difficult	3	9%	0	0	3

Very difficult	1	3%	0	1	0

N=35

Table 31. Q18: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	17	49%	4	1	12
Quite easy	15	43%	2	2	11
Quite difficult	2	6%	0	0	2
Very difficult	1	3%	0	1	0

N=37

*Three mystery shoppers in the smartphone app scenario indicated that the information was presented in a format that was ‘quite easy’ to view and read, while the other mystery shopper found it very difficult.

Table 32. Q19: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	35	100%	6	4	25
During the search for money transfer services	1	3%	0	0	1
After finding and selecting a credit card	0	0%	0	0	0
With the agreement/contract	0	0%	0	0	0

N=35

Phone scenario

Some questions related to the information provided about the money transfer were asked only in the phone scenario. The results were the following:

- Information was provided spontaneously by the salesperson in half of the mystery shops. In one case, the information was provided after being requested, while in another despite having been requested it was never provided;
- Three mystery shoppers indicated that the information on each service was comprehensive and clear, while one indicated that little information was provided on each product and did not allow for an informed purchase decision;
- Three mystery shoppers received the information during the first call (in one case, a link to the provider's website was also provided), while the other never received the information;
- Three found it ‘quite easy’ to compare the different types of credit card on the basis of the information provided by the salesperson;

- Three advised the salesperson/provider of their preferred option during the call, while one did not (they never received the information). However, there was no specific timeframe in which to do it.

D. Other information disclosure during the purchase process

4.5.8 D1. Information required from the mystery shopper

Table 33. Q25: As part of the purchase process, what information was required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Name	36	92%	6	3	23	4
Email address	35	90%	6	3	23	3
Phone number	34	87%	6	3	21	4
Country of residence/home address	26	67%	6	2	18	0
Nationality	26	67%	6	1	18	1
National ID/passport	21	54%	2	2	14	3
Date of birth/age	32	82%	6	3	20	3
Marital status	18	46%	5	1	12	0
Employment status	21	54%	3	1	13	4
Income	17	44%	3	1	11	2

N=39

* Three mystery shoppers were asked for their social security number. In one case, the source of income was requested, while another was asked for their health insurance policy number.

Table 34. Q26: At what stage(s) of the purchase process was this information required from you? (select all that apply)

<table>
<tr><th></th><th>Total</th><th>Total</th><th>Cross-border</th><th>Smartphone app</th><th>Online</th><th>Phone*</th></tr>
<tr><td>Pre-application, when assessing eligibility to apply</td><td>20</td><td>57%</td><td>2</td><td>3</td><td>13</td><td rowspan="4">In three cases, ‘during the first call (or a follow-up call’
In one case at a later date, via an online</td></tr>
<tr><td>During the search for credit cards</td><td>4</td><td>11%</td><td>0</td><td>0</td><td>2</td></tr>
<tr><td>After finding and selecting a specific credit card for purchase</td><td>20</td><td>57%</td><td>5</td><td>0</td><td>15</td></tr>
<tr><td>With the agreement/contract</td><td>4</td><td>11%</td><td>0</td><td>0</td><td>4</td></tr>
</table>

						account set up with the provider

N=35

4.5.9 D2. Information received about the provider

Table 35. Q27: As part of the purchase process, what information about the supplier was provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Identity of the supplier	32	82%	6	2	22	2
Main business of the supplier	30	77%	6	2	22	0
Geographical address at which the supplier is established (and any other relevant geographical address)	24	62%	6	1	17	0
Identity of the sales representative, if applicable	4	10%	1	0	0	3
Geographical address at which the sales representative is based, if applicable	2	5%	2	0	0	0
Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	2	5%	1	0	1	0
Capacity in which the professional is acting (i.e. the role played by the professional during the purchase process), if applicable	5	13%	1	0	4	0
Geographical address at which the professional is based, if applicable	6	15%	1	1	4	0
Public or trade register on which the supplier features	13	33%	3	1	9	0
Supplier's registration number or an equivalent means of identification in the public or trade register	14	36%	4	1	9	0
Particulars of the supervisory authority	17	44%	4	1	12	0

regulating the supplier's activities

N=39

Table 36. Q28. At what stage(s) of the purchase process was this information provided to you? (select all that apply)

<table>
<tr><th></th><th>Total</th><th>Total</th><th>Cross-border</th><th>Smartphone app</th><th>Online</th><th>Phone</th></tr>
<tr><td>Pre-application, when assessing eligibility to apply</td><td>23</td><td>68%</td><td>4</td><td>3</td><td>16</td><td rowspan="4">During the first call and in one case also via an online account</td></tr>
<tr><td>During the search for credit cards</td><td>20</td><td>59%</td><td>4</td><td>0</td><td>16</td></tr>
<tr><td>After finding and selecting a specific credit card for purchase</td><td>14</td><td>41%</td><td>3</td><td>0</td><td>11</td></tr>
<tr><td>With the agreement/contract</td><td>6</td><td>18%</td><td>2</td><td>1</td><td>3</td></tr>
</table>

N=34 (one mystery shopper in the online scenario did not receive this information)

Table 37. Q29: How was this information communicated to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	34	89%	6	3	25	0
Information was emailed separately	0	0%	0	0	0	0
Information was sent by post	0	0%	0	0	0	0
Information was shared during a scheduled call with a representative	4	11%	0	0	0	4

N=38 (one mystery shopper in the online scenario did not receive this information)

Table 38. Q30: Was this information easy to understand? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Very easy	15	39%	4	1	9	1
Quite easy	20	53%	2	1	14	3
Quite difficult	1	3%	0	0	1	0
Very difficult	2	5%	0	1	1	0

N=38 (one mystery shopper in the online scenario did not receive this information)

4.5.9.1 Online, cross-border and smartphone app scenarios

Table 39. Q31: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	10	29%	1	1	8
Quite easy	17	50%	5	1	11
Quite difficult	5	15%	0	0	5
Very difficult	2	6%	0	1	1

N=34 (one mystery shopper from the online scenario did not get this information)

* Two mystery shoppers in the smartphone app scenario indicated that the information was presented in a format that was quite easy to view and read, while one mystery shopper found it very difficult.

4.5.9.2

4.5.9.3 Phone scenario

For the information about the provider in the phone scenario, mystery shoppers reported that:

- In all cases, the information was provided spontaneously;
- In three cases, the salesperson sought the consent of the mystery shopper before sharing information about the desired product, the supplier, the distance contract, and forms of redress. In one case, much of the information had to be sought from the salesperson;
- In three cases, the salesperson informed the mystery shopper that additional information was available on request, while in one case he did not.

4.5.10 D3. Information relating to the terms/conditions of a prospective contract

In three mystery shops (one cross-border, one online and one phone scenario), information relating to terms and conditions was not provided/available.

Table 40. Q35: As part of the purchase process, which information relating to the terms/conditions of a prospective contract with the provider was communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Existence of a right of withdrawal	25	64%	5	2	18	0
Permitted timeframe for withdrawal	18	46%	4	1	11	2
Conditions for exercising the right of withdrawal	20	51%	5	1	13	1
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	18	46%	4	1	13	0
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	15	38%	3	2	9	1
Language(s) in which the contractual terms and conditions, and any prior information will be made available	9	23%	2	1	6	0
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	9	23%	2	1	6	0
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	12	31%	2	1	9	0

N=39, * Three mystery shoppers did not receive any of the above information.

Table 41. Q36: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online	Phone
Very easy	8	22%	3	0	5	0
Quite easy	20	56%	2	2	13	3
Quite difficult	4	11%	0	0	4	0
Very difficult	4	11%	0	1	3	0

N=36

Table 42. Q37: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	34	94%	5	3	25	1
Information was emailed separately	0	0%	0	0	0	0
Information was sent by post	0	0%	0	0	0	0
Information was shared during a scheduled call with a representative	3	8%	0	0	1	2

N=36

4.5.10.1

Table 43. Q38: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	9	27%	2	1	6
Quite easy	13	39%	3	1	9
Quite difficult	7	21%	0	0	7
Very difficult*	4	12%	0	1	3

N=33 (Two mystery shoppers never found/received this information)

* Two found the format in which the information was provided 'quite easy' to view and read, while one found it 'very difficult'.

Table 44. Q39: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	18	46%	3	3	12
During the search for money transfer services	11	28%	1	0	10
After finding and selecting a money	10	26%	1	0	9

transfer service for purchase					
With the agreement/contract	9	23%	1	1	7

N=33 (Two mystery shoppers never found/received this information)

Table 45. Q40: Were you informed that the terms and conditions could change?

	Total	Cross-border*	Smartphone app	Online	Phone
Yes	6	0	0	4	2

N-36

*None of the cross-border mystery shoppers were informed that the terms and conditions could change based on their country of residence.

E. Overall customer experience

Table 46. Q41: How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	0	0%	0	0	0	0
2 - Fair	5	13%	0	0	4	1
3 - Good	13	34%	1	2	8	2
4 - Very good	15	39%	4	1	10	0
5 - Excellent	5	13%	1	0	3	1

N=38

Table 47. Q42: How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
1 - Poor	0	0%	0	0	0	0
2 - Fair	4	11%	0	0	3	1
3 - Good	14	37%	3	2	8	1
4 - Very good	15	39%	1	1	12	1
5 - Excellent	5	13%	2	0	2	1

N=38

Table 48. Q43: How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	**Total (%)**	**Cross-border**	**Smartphone app**	**Online**	**Phone**
1 - Poor	0	0%	0	0	0	0
2 - Fair	7	18%	0	1	6	0
3 - Good	17	45%	3	1	10	3
4 - Very good	10	26%	2	1	7	0
5 - Excellent	4	11%	1	0	2	1

N=38

Table 49. Q44: When did you receive the final contract from the provider? Please indicate the number of days between first visiting the provider's website and receiving the final contract (select one option)

	Total	**Total (%)**	**Cross-border**	**Smartphone app**	**Online**	**Phone**
Within five working days	18	47%	3	2	12	1
I did not receive it within the time of research	20	53%	3	1	13	3

N=38

Table 50. Q45: How did you receive the final contract from the provider? (select all that apply)

	Total	**Total**	**Cross-border**	**Smartphone app**	**Online**	**Phone**
Via online account set up with the provider	14	78%	3	1	9	1
By email	4	22%	0	0	4	0
By post	2	11%	0	1	1	0

N=18

Table 51. Q46: How much time were you given to read and sign the contract? Please indicate the number of days between receiving the final contract and the deadline set for submitting the signed contract to the provider (select one option)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Up to 5 working days	16	89%	3	2	10	1
Between 5 and 10 working days	1	6%	0	0	1	0
More than 10 working days	1	6%	0	0	1	0

N=16

Other points:

- Only one mystery shopper reported having felt pressured (e.g. to select a particular policy, sign an agreement, etc.).
- 3 out of 25 mystery shoppers in the online scenario reported having had a less positive experience due to lack of information and requests to pay a fee in advance.
- In the cross-border scenario, one mystery shopper considered their experience less positive due the need to enter all of their personal data to access the information about the products.
- In the smartphone app scenario, two mystery shoppers had a less positive experience due to difficulties in finding information.
- In the phone scenario, all mystery shoppers reported a very positive experience. However, at the end they were required to go to a branch to finalise the operation.
- The mystery shoppers recommended:
  - Table to compare the different characteristics of the available credit cards and extras;
  - Information on the products and limitations should be accessible and easy to find;
  - Better customer support service, e.g., chatbot, phone number;
  - Guided process to help the customer to select the credit card(s) that best match their preferences.

One mystery shopper would have preferred to receive the information in a downloadable .pdf rather than by post.

Mystery shopping 2: Current account

In this section we present the results of the mystery shopping exercise where mystery shoppers simulated the acquisition of a current account. As mentioned before, when presenting the results, we often indicate percentages. Sometimes the presented percentages do not add to 100% because of the need to round up/down numbers.

2.1 Overview

In this section we provide an overview of the respondents' profile, a summary of the segmentation per scenario (i.e., online, cross-border, smartphone app and phone) and a list of the questions asked to the mystery shoppers that simulated the acquisition of a current account.

2.1.1 Respondent profile

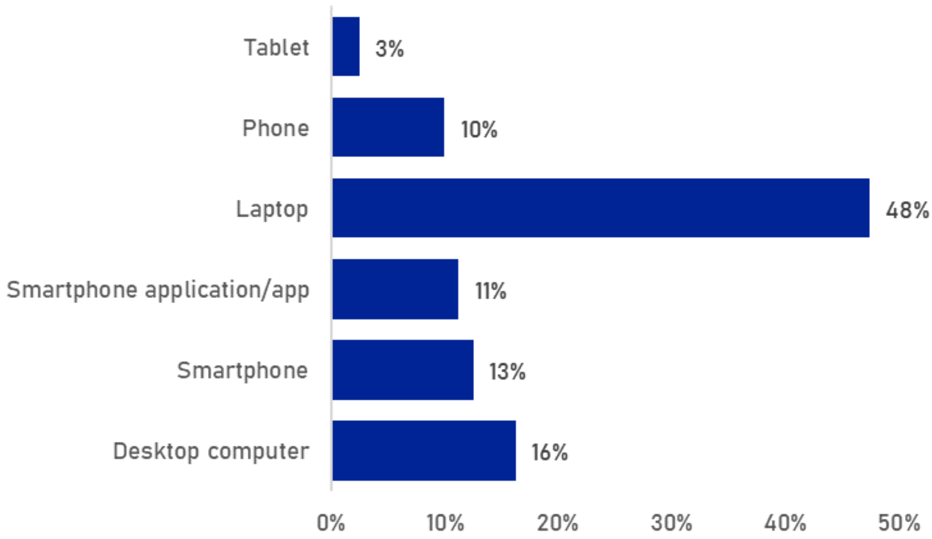
Table 52. Mystery shops by type of scenario and type of financial provider

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	21	95%	0%	5%
Smartphone app	12	17%	0%	83%
Online	37	46%	27%	27%
Phone	10	100%	0%	0%
Total (%)		61%	13%	26%
Total	**80**	**49**	**10**	**21**

Table 53. Mystery shops by Member State

Member State	Count
Belgium	8
Czechia	8
Finland	8
France	8
Germany	8
Ireland	8
Italy	8
Netherlands	8
Poland	8
Sweden	8
Total	**80**

Figure 61. Device used in the mystery shops



2.1.2 Scenarios

The segmentation per scenario was as follows:

- **Online**: 37 mystery shops were carried out in 10 countries. Of those, 46% were traditional financial providers, 27% were consolidators/brokers and the remaining 27% were FinTechs. Mystery shoppers primarily used their laptop (54%), a desktop computer (24%) or smartphone (19%), while 3% used a tablet. In one case, the website only presented current accounts and redirected shoppers to other websites. In order to access the various options, the mystery shopper had to register.
- **Cross-border**: 21 mystery shops were carried out in the 10 countries, 95% on traditional financial providers and 5% on FinTechs. Of those, 16 used a laptop, four used a desktop computer and one used a tablet.
- **Smartphone app**: 12 mystery shops were carried out in the 10 countries, 17% on traditional providers and 83% on FinTechs. One mystery shopper did not manage to download the app.
- **Phone**: 10 mystery shops were carried out on traditional financial providers in the 10 countries.

2.1.3 Questions

The following table provides an overview of the questions asked to the mystery shoppers and for which the results are presented in the next sections.

Table 54. Questions in the mystery shopping on current accounts

Stage / Question	Scenario
A. Stage: access and awareness	
Q49. Did you have to register/create an online account with the provider before you were allowed to search/shop for current accounts online?	Online
Q50. What was the minimum age required for applying?	Online
Q51. Were you required to be resident in the provider's home country to open a current account?	Online
Q52. What proof of ID was required?	Online

Q53.	How was the pre-application information gathered and processed?	Online
Q54.	Was your application rejected? If yes, what reasons were provided by the provider for their decision?	Online
Q55.	Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?	Cross-border
Q56.	Were any prerequisites/eligibility requirements specified for applying for a current account online?	Cross-border
Q57.	Were you required to be resident in the provider's home country to apply for a current account? Did you encounter any problems in inserting, when requested, your address or residence details?	Cross-border
Q58.	Were you required to hold a specific nationality to be able to apply? Did you encounter any problems in inserting, when requested, your nationality?	Cross-border
Q59.	Were you required to be an existing customer to be able to open a current account from the provider?	Cross-border
Q60.	What proof of ID was required?	Cross-border
Q61.	How was the pre-application information gathered and processed?	Cross-border
Q62.	Was your application rejected? If yes, what reasons were given by the provider for their decision?	Cross-border
Q63.	Did you have to register/create an online account with the provider before you were allowed to search/shop for a current account via their smartphone app?	Smartphone app
Q64.	Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?	Smartphone app
Q65.	What was the minimum age (in years) required for applying? Were you required to hold a specific nationality to be able to apply? What proof of ID was required?	Smartphone app
Q66.	How was the pre-application information gathered and processed? Was your application rejected? If yes, why?	Smartphone app
Q67.	How long after completing and sending the online request form did the call take place?	Phone
Q68.	Did the salesperson verify your eligibility to apply for a current account? Did you meet the eligibility requirements? If not, why?	Phone
Q69.	What was the minimum age (in years) required for applying? What proof of ID was required?	Phone
Q70.	Could the process of opening a current account be concluded by phone?	Phone
B. Stage: consideration and purchase		
B1. Easy-to-use website and offers received		
Q71.	Was it easy to search for current accounts on the provider's website/app?	Online, cross-border and smartphone app
Q72.	How many current accounts were offered to you?	All
B2. Information on current account		
Q73.	What information (about each current account) was provided to help you to compare and select the account that best suited your needs?	All
Q74.	How was this information communicated to you?	All
Q75.	Was this information easy to find?	Online, cross-border and smartphone app

Q76. Was this information easy to understand?	Online, cross-border and smartphone app
Q77. Was the information provided spontaneously by the salesperson?	Phone
Q78. Was the information provided on each product comprehensive and clear?	Phone
Q79. How was the information provided to you?	Phone
Q80. Was the information easy to understand?	Phone
Q81. Was is easy to compare products in the basis of the information received?	Phone
Q82. Did you advise the salesperson/provider of your preferred option for a current account during the call?	Phone
C. Other information disclosure during the purchase process	
C1. Information required from the mystery shopper	
Q83. As part of the purchase process, what information was required from you?	All
Q84. At what stage(s) of the purchase process was this information required from you?	All
C2. Information received about the provider	
Q85. As part of the purchase process, what information about the supplier was provided to you?	All
Q86. Were commonalities and/or differences between the different types of stocks/shares sufficiently explained?	Online, cross-border and smartphone app
Q87. At what stage(s) of the purchase process was this information provided to you?	All
Q88. How was this information communicated to you?	All
Q89. Was this information easy to understand?	All
Q90. Was this information easy to find?	Online, cross-border and smartphone app
Q91. Was the information provided spontaneously?	Phone
Q92. Did the salesperson seek your consent before sharing information about the desired product, the supplier, the distance contract, and forms of redress?	Phone
Q93. Did the salesperson inform you that additional information was available on request?	Phone
C3. Information relating to the terms/conditions of a prospective contract	
Q94. As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you?	All
Q95. Was this information easy to understand?	All
Q96. At what stage(s) of the purchase process was this information provided to you?	All
Q97. How was this information communicated to you?	All
Q98. Were you informed that the terms and conditions could change?	All
Q99. Which terms and conditions may change?	All
Q100. Was this information easy to find?	Online, cross-border and smartphone app
Q101. Was the information provided in a format that was easy to view and read?	Smartphone app
Q102. How did you receive this information?	Phone
D. Overall customer experience	

Q103. How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q104. How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q105. How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q106. When did you receive the final contract from the provider?	All
Q107. How did you receive the final contract from the provider?	All
Q108. How much time were you given to read and sign the contract?	All
Q109. How would you describe your overall customer experience in a few sentences?	All
Q110. Do you have any suggestions for improving the service or customer experience?	All

2.2 Results

This section presents the results of the mystery shopping exercise per scenario.

A. Stage: access and awareness

Online

Q1. Did you have to register/create an online account with the provider before you were allowed to search/shop for current accounts online?

In 11 cases (out of 36), the mystery shopper had to register/create an account before they were allowed to search for a current account.

Q2. What was the minimum age required for applying?

In 81% of cases, the minimum age was 18 years, while 10% gave no indication of a minimum age.

Q3. Were you required to be resident in the provider's home country to open a current account?

35% of the mystery shops required the mystery shopper to be resident in the provider's home country.

Q4. What proof of ID was required?

Of the 36 mystery shops, only 34 assessed this requirement (two mystery shops could not continue, see next questions). 41% required no proof of ID, while the remainder required more than one proof of ID:

- National ID number was required in 15 mystery shops (35%).
- Passport number was required in 12 mystery shops (44%).
- Social security number was required in nine mystery shops (26%).
- Driving licence was required in five mystery shops (12%).

Q5. How was the pre-application information gathered and processed?

39% of the mystery shops could not continue their application online, but:

- 'a contact number was provided to apply by phone' (4 out of 36).
- 'a branch address was provided to apply in person' (10 out of 36).

For these 14 cases, the mystery shop finished here.

Of the remaining 22:

- 86% of the mystery shoppers provided their details online, which were processed automatically, receiving an instant response on whether or not they could apply;
- Two mystery shoppers provided their details via an online form and received a response by email at a later date;
- One mystery shopper provided their details via an online form and received a response by post at a later date.

Q6. Was your application rejected? If yes, what reasons were provided by the provider for their decision?

Of the 22 mystery shoppers that were able to apply for a current account, eight (39%) had their application rejected. In some cases, the application was rejected for more than one reason.

Cross-border

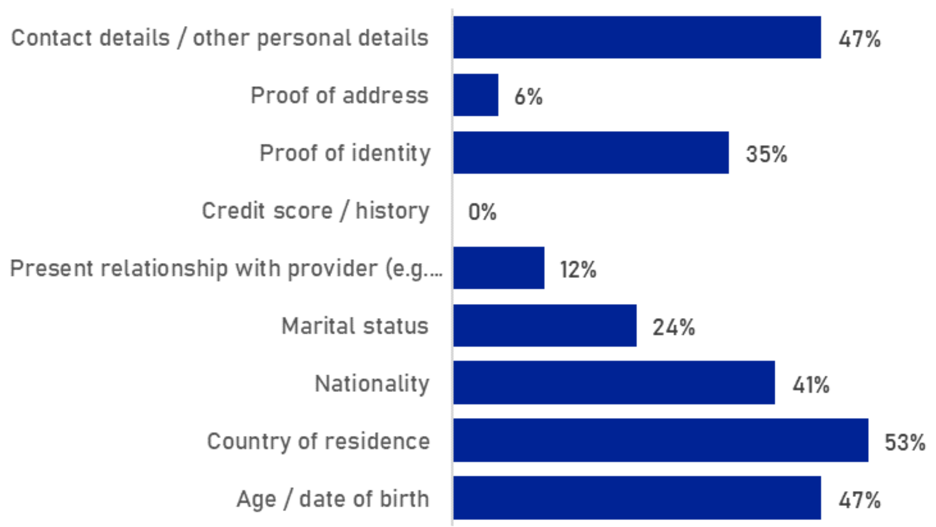
Q7. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?

In one case the non-domestic website of the provider was blocked. In four cases the mystery shoppers were redirected to the domestic or global website of the provider.

Q8. Were any prerequisites/eligibility requirements specified for applying for a current account online?

Of the 17 that could proceed with the mystery shop (i.e. that were not blocked or redirected), only 15 managed to start an application. For those, certain prerequisites/eligibility requirements were specified for starting a cross-border current account application (see Figure 62).

Figure 62. Prerequisites/eligibility requirements specified for applying for a cross-border current account



N=15

In addition, two mystery shoppers reported that the financial provider required additional information. In one case, information on employment, marital status and wealth was sought, while, in the other, the shopper was asked for information on their income, savings and tax identification number.

Q9. Were you required to be resident in the provider's home country to apply for a current account? Did you encounter any problems in inserting, when requested, your address or residence details?

In five mystery shops (out of 17), the mystery shopper was required to be resident in the provider's home country to apply for a current account. The following related problems were also encountered:

- 'They said I have to speak German'.
- 'No valid ID card number, with telephone number'.
- 'The national fiscal number was mandatory. I don't know it'.
- 'I could not enter my hometown'.

Q10. Were you required to hold a specific nationality to be able to apply? Did you encounter any problems in inserting, when requested, your nationality?

In three mystery shops (out of 17) the mystery shopper was required to hold a specific nationality to be able to apply for a current account.

Q11. Were you required to be an existing customer to be able to open a current account from the provider?

Only two mystery shoppers were required to be an existing customer to apply.

Q12. What proof of ID was required?

Nine mystery shoppers were requested to provide proof of ID at this stage (more than one proof of ID was sometimes allowed).

Q13. How was the pre-application information gathered and processed?

41% of the mystery shops could not continue their application online, but:

- 'a contact number was provided to apply by phone' (29%).
- 'a branch address was provided to apply in person' (12%).

For these seven cases, the mystery shop ended here.

Of the remaining 10:

- Seven provided their details online, which were processed automatically, receiving an instant response on whether or not they could apply;
- Two mystery shoppers provided their details via an online form and received a response by email at a later date;
- One mystery shopper provided their details via an online form and received a response by post at a later date.

Q14. Was your application rejected? If yes, what reasons were given by the provider for their decision?

Of the 10 mystery shoppers that were able to apply for a current account, three had their application rejected and two received no reply.

Smartphone app

Q15. Did you have to register/create an online account with the provider before you were allowed to search/shop for a current account via their smartphone app?

For 10 of the 11 mystery shops, it was compulsory to register.

Q16. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?

10 mystery shoppers considered it very easy to find and download the provider's smartphone app. Only one found it 'very difficult'. In one case, the app was only free of charge for existing customers and the mystery shop ended at that stage.

Q17. What was the minimum age (in years) required for applying? Were you required to hold a specific nationality to be able to apply? What proof of ID was required?

In five cases, the minimum age was 18. In the remaining six, there was no indication of minimum age. Five mystery shoppers were requested to provide a proof of ID.

Q18. How was the pre-application information gathered and processed? Was your application rejected? If yes, why?

In five out of 11 cases, the mystery shops could not continue their application online but:

- 'a contact number was provided to apply by phone' (three cases).
- 'a branch address was provided to apply in person' (two cases).

For these five cases, the mystery shop finished here.

Of the remaining six:

- Four mystery shoppers provided their details online, which were processed automatically, receiving an instant response on whether or not they could apply;
- Two mystery shoppers provided their details via an online form and received a response by email at a later date.

Of the six mystery shoppers that were able to apply for a current account, one had their application rejected at this stage.

Phone

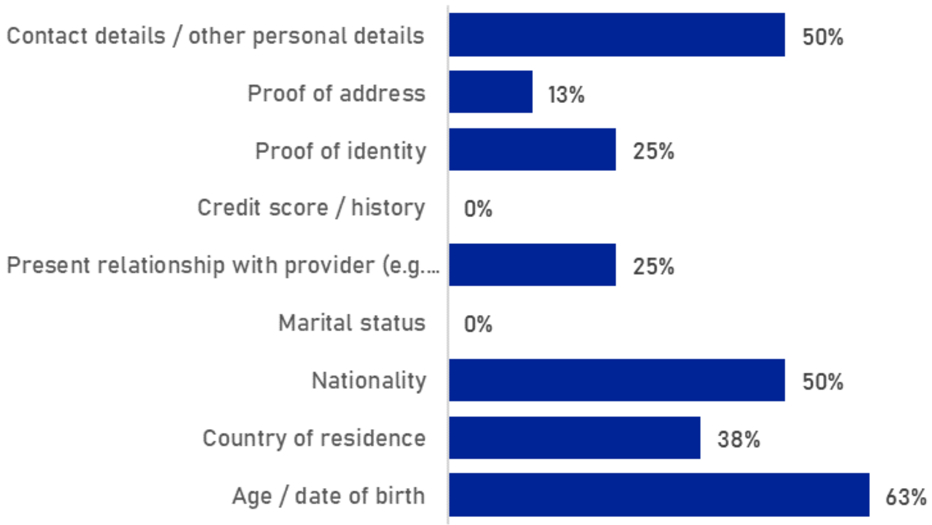
Q19. How long after completing and sending the online request form did the call take place?

Two of 10 mystery shoppers did not receive a follow-up call within the timeframe set for the research. The remaining eight received a phone call up to five working days after submitting the request online.

Q20. Did the salesperson verify your eligibility to apply for a current account? Did you meet the eligibility requirements? If not, why?

The information required from the mystery shoppers is presented in Figure 5 below.

Figure 63. Prerequisites/eligibility requirements specified for opening a current account?



Three mystery shoppers did not meet the eligibility criteria and could not proceed further with the process. In each case, they were required to be an existing client in order to open an account by phone.

Q21. What was the minimum age (in years) required for applying? What proof of ID was required?

In six out of eight mystery shops, the minimum age was 18. In one case it was 16, while the other had no age limit.

Six mystery shoppers were required to provide a proof of ID. Several options were provided, with the most common being a passport or national ID.

Q22. Could the process of opening a current account be concluded by phone?

Of the five mystery shoppers that received a follow-up call and met the eligibility criteria, three were informed that it was not possible to do the application by phone and were provided with a branch address to apply in person.

B. Stage: consideration and purchase

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	**5**	100%	0%	0%
Smartphone app	**6**	0%	0%	100%
Online	**22**	50%	14%	36%
Phone	**2**	100%	0%	0%
Total (%)		51%	9%	40%
Total	**35**	**18**	**3**	**14**

For the various reasons outlined above:

- Of the 37 mystery shops in the online scenario, only 22 (60%) got to this stage;

- Of the 21 mystery shops in the cross-border scenario, only 5 (23%) got to this stage;
- Of the 12 mystery shops in the smartphone app scenario, only 6 (50%) got to this stage;
- Of the 10 mystery shops in the phone scenario, only 2 (20%) got to this stage.

6.1.1 B1. Easy-to-use website and offers received

Table 55. Q23: Was it easy to search for current accounts on the provider's website/app?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Very easy	20	61%	1	4	15	N/A
Quite easy	6	18%	1	1	4	N/A
Quite difficult	5	15%	2	0	3	N/A
Very difficult	2	6%	1	1	0	N/A

**N/A: the question was not asked in that scenario*

N= 33

Table 56. Q24: How many current accounts were offered to you?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Up to 5 different types of current accounts	31	89%	5	6	18	2
Between 5 and 10 different types of current accounts	2	6%	0	0	2	0
More than 10 different types of current accounts	2	6%	0	0	2	0

N=35

6.1.2 B2. Information on current account

Table 57. Q25: What information (about each current account) was provided to help you to compare and select the account that best suited your needs? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Product name	32	91%	5	4	21	2
Specific product features	26	74%	4	4	16	2
Specific product benefits	19	54%	2	3	12	2

Specific services that come with the account	16	46%	1	2	11	2
Rates/fees	22	63%	1	2	17	2
Overdrafts	5	14%	0	0	5	0
Account management tips/details	6	17%	1	0	5	0
Terms and conditions	19	54%	2	3	13	1

N=35

Table 58. Q26: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	31	89%	4	6	21	0
Information was emailed separately	3	9%	0	0	3	1
Information was sent by post	1	3%	1	0	0	0
Information was shared during a scheduled call with a representative	0	0%	0	0	0	1

N=33

Online, cross-border and smartphone app scenarios

Table 59. Q27: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	15	45%	1	4	10
Quite easy	12	36%	2	1	9
Quite difficult	3	9%	1	0	2
Very difficult	3	9%	1	1	1

N=33

Table 60. Q28: Was this information easy to understand? Select one option.

	Total	Total (%)	Smartphone app*	Online
Very easy	13	46%	2	11
Quite easy	11	39%	2	9
Quite difficult	2	7%	1	1
Very difficult	2	7%	1	1

N=28

Phone scenario

Some questions in relation to information provided about current accounts were asked only in the phone scenario. These are the results:

- In two mystery shops the information was provided spontaneously by the salesperson.
- All mystery shoppers considered the information provided on each product comprehensive and clear.
- All received the information during the call. In one case it was also sent by email.
- Two mystery shoppers found the information 'quite easy' to understand.
- Two mystery shoppers found it 'very easy' to compare products in the basis of the information received, while the other two found it 'quite easy'.
- Two mystery shoppers advised the salesperson/provider of their preferred option for a current account during the call, although there was no specific timeframe to do it.

C. Other information disclosure during the purchase process

C1. Information required from the mystery shopper

Table 61. Q35: As part of the purchase process, what information was required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Name	32	91%	5	5	20	2
Email address	31	89%	4	5	20	2
Phone number	29	83%	4	5	18	2
Country of residence/home address	26	74%	4	4	16	2
Nationality	20	57%	3	1	14	2
ID	17	49%	2	1	12	2
Date of birth/age	27	77%	4	4	17	2
Marital status	7	20%	2	0	5	0
Employment status	7	20%	2	0	4	1

Income	5	14%	1	0	4	0

N=35

Other information requested of some mystery shoppers was the duration and sector of employment (one case) and details of an existing bank account (two cases).

Table 62. Q36: At what stage(s) of the purchase process was this information required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Pre-application, when assessing eligibility to apply	21	60%	4	5	11	1
During the search for a current account	5	14%	0	2	3	0
After finding and selecting a current account	18	51%	2	1	14	1
With the agreement/contract	2	6%	0	0	2	0

* Both mystery shoppers in the phone scenario communicated this information during a call (first or follow-up)

N=35

6.1.3 C2. Information received about the provider

Table 63. Q37: As part of the purchase process, what information about the supplier was provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Identity of the supplier	31	89%	4	5	20	2
Main business of the supplier	27	77%	4	4	17	2
Geographical address at which the supplier is established (and any other relevant geographical address)	21	60%	5	3	12	1
Identity of the sales representative, if applicable	3	9%	1	0	1	1
Geographical address at which the sales representative is based, if applicable	4	11%	2	0	2	0

Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	3	9%	1	0	2	0
Capacity in which the professional is acting (i.e. the role played by the professional during the purchase process), if applicable	4	11%	1	0	3	0
Geographical address at which the professional is based, if applicable	4	11%	1	0	3	0
Public or trade register on which the supplier features	14	40%	2	1	10	1
Supplier's registration number or an equivalent means of identification in the public or trade register	12	34%	2	0	9	1
Particulars of the supervisory authority regulating the supplier's activities	10	29%	2	0	7	1

N=35

Table 64. Q38: Were commonalities and/or differences between the different types of stocks/shares sufficiently explained?

	Total	Total (%)	Cross-border	Smartphone app	Online
Yes, the information provided on each stock/share class was comprehensive and clear	16	84%	3	2	11
No, little information was provided on each stock/share class and did not allow for an informed purchase decision	3	16%	0	1	2

Table 65. Q39: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Pre-application, when assessing eligibility to apply	19	54%	4	4	10	1
During the search for a current account	13	37%	0	1	12	0
After finding and selecting a current account	10	29%	2	3	5	0
With the agreement/contract	5	14%	0	0	4	1

N=35

Table 66. Q40: How was this information communicated to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	31	89%	4	6	21	0
Information was emailed separately	4	11%	0	0	2	2
Information was sent by post	1	3%	1	0	0	0
Information was shared during a scheduled call with a representative	0	0%	0	0	0	2

N=35

Table 67. Q41: Was this information easy to understand? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Very easy	18	51%	2	3	13	0
Quite easy	12	34%	2	2	6	2
Quite difficult	4	11%	1	0	3	0
Very difficult	1	3%	0	1	0	0

N=33

Online, cross-border and smartphone app scenarios

Table 68. Q42: Was this information easy to find? Select one option.

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	14	42%	2	3	9
Quite easy	12	36%	2	2	8
Quite difficult	3	9%	0	0	3
Very difficult	4	12%	1	1	2

N=33

Phone scenario

Regarding the information about the provider, in all mystery shops:

- The information was provided spontaneously;
- The salesperson sought the consent of the mystery shopper before sharing information about the desired product, the supplier, the distance contract, and forms of redress;
- The salesperson informed the mystery shopper that additional information was available on request.

6.1.4 C3. Information relating to the terms/conditions of a prospective contract

Table 69. Q46: As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Existence of a right of withdrawal	23	66%	3	4	15	1
Permitted timeframe for withdrawal	21	60%	3	3	14	1
Conditions for exercising the right of withdrawal	19	54%	2	2	13	2
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	14	40%	2	2	9	1
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	15	43%	2	2	10	1

Language(s) in which the contractual terms and conditions, and any prior information will be made available	8	23%	2	1	5	0
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	9	26%	2	1	5	1
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	10	34%	1	1	7	1

N=35

* In five mystery shops (smartphone app scenario), information relating to terms and conditions was not provided/available. One mystery shop provided only a link to the general terms and conditions.

Table 70. Q47: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online	Phone
Very easy	14	47%	2	3	9	0
Quite easy	11	37%	0	1	8	2
Quite difficult	5	17%	1	1	3	0
Very difficult	0	0%	0	0	0	0

N=30

Table 71. Q48: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Pre-application, when assessing eligibility to apply	12	40%	0	2	9	1
During the search for a current account	9	30%	0	1	8	0
After finding and selecting a current account	15	50%	3	3	8	1
With the agreement/contract	4	13%	0	0	3	1

N=30

Table 72. Q49: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	26	87%	2	5	19	0
Information was emailed separately	5	17%	1	0	2	2
Information was sent by post	0	0%	0	0	0	0
Information was shared during a scheduled call with a representative	0	0%	0	0	0	0

N=30

On the possible changes to the terms and conditions, of the 30 mystery shoppers:

- Five from the online scenario were informed that the terms and conditions could change (see Table 57 below);
- Only one from the online scenario was informed that the terms and conditions could change based on their nationality;
- Only three from the online scenario were informed that the terms and conditions could change based on their country of residence.
- None of the mystery shoppers were informed that the contract terms/conditions could change due to factors within and/or beyond the control of the provider

Table 73. Q51: Which terms and conditions may change?

	General	Based on nationality	Based on residence
Existence of a right of withdrawal	4	1	3
Permitted timeframe for withdrawal	4	1	3
Conditions for exercising the right of withdrawal	4	1	3
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	3	1	2
Any contractual clause stipulating the law(s)	2	1	2

applicable to the distance contract and/or the competent court for judicial matters			
Language(s) in which the contractual terms and conditions, and any prior information will be made available	1	0	1
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	0	0	1
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	3	1	1

N=5, 1, 2

Online, cross-border and smartphone app scenarios

Table 74. Q52: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	13	46%	1	2	10
Quite easy	7	25%	0	2	5
Quite difficult	7	25%	1	1	5
Very difficult	1	4%	1	0	0

N=28

Table 75. Q53: Was the information provided in a format that was easy to view and read? (select one option)

	Total	Total (%)	Smartphone app	Online
Very easy	12	48%	1	11
Quite easy	8	32%	2	6
Quite difficult	5	20%	2	3
Very difficult	0	0%	0	0

N=25

Phone scenario

Mystery shoppers received this information verbally during the phone call.

D. Overall customer experience

Table 76. Q55: How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	5	14%	2	2	1	0
2 - Fair	2	6%	0	0	2	0
3 - Good	13	37%	1	2	9	1
4 - Very good	12	34%	1	2	8	1
5 - Excellent	3	9%	1	0	2	0

N=35

Table 77. Q56: How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
1 - Poor	3	9%	1	2	0	0
2 - Fair	5	14%	1	0	4	0
3 - Good	13	37%	1	2	8	2
4 - Very good	8	23%	0	1	7	0
5 - Excellent	6	17%	2	1	3	0

N=35

Table 78. Q57: How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	4	11%	2	2	0	0
2 - Fair	5	14%	0	1	3	0
3 - Good	13	37%	1	1	11	1

4 - Very good	8	23%	1	2	5	1
5 - Excellent	6	17%	1	0	3	0

N=35

Table 79. Q58: When did you receive the final contract from the provider? Please indicate the number of days between first visiting the provider's website and receiving the final contract (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Within three working days	18	51%	3	1	12	2
I did not receive it within the time of research	17	49%	2	5	10	0

N=35

Table 80. Q59: How did you receive the final contract from the provider? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Via online account set up with the provider	10	56%	3	0	7	0
By email	7	39%	0	1	4	2
By post	1	6%	0	0	1	0

N=18

Table 81. Q60: How much time were you given to read and sign the contract? Please indicate the number of days between receiving the final contract and the deadline set for submitting the signed contract to the provider (select one option)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Up to 5 working days	14	78%	3	0	10	1
Between 5 and 10 working days	1	6%	0	0	1	0
More than 10 working days	3	17%	0	1	1	1

N=18

Other points:

- Only one mystery shopper reported having felt pressured (e.g. to select a particular policy, sign an agreement, etc.).
- Only three mystery shoppers in the online scenario reported having had a less positive experience, primarily because the website was confusing and there was not much information available. The remainder indicated that the website was user-friendly and the information easy to find and understand.
- In the cross-border scenario, three mystery shoppers considered their experience positive, while two indicated problems receiving/understanding information.
- In the smartphone app scenario, half of the mystery shoppers indicated that the app was easy to use and user-friendly. The other half experienced problems with the app or with the fact that they had to pay to open an account.
- In the phone scenario, all mystery shoppers reported a very positive experience.
- The mystery shoppers recommended the following:
    - Clearer indication of the differences between the various accounts;
    - Better online support;
    - Clearer information;
    - Information should be provided at an earlier stage of the process;
    - Very personal information (e.g. copy of ID) should not be requested at the beginning of the process.

Mystery shopping 3: Money transfers

In this section we present the results of the mystery shopping exercise where mystery shoppers simulated contracting a monthly money transfer. As mentioned before, when presenting the results, we often indicate percentages. Sometimes the presented percentages do not add to 100% because of the need to round up/down numbers.

3.1 Overview

In this section we provide an overview of the respondents' profile, a summary of the segmentation per scenario (i.e., online, cross-border, smartphone app and phone) and a list of the questions asked to the mystery shoppers that simulated an agreement for a monthly money transfer.

3.1.1 Respondent profile

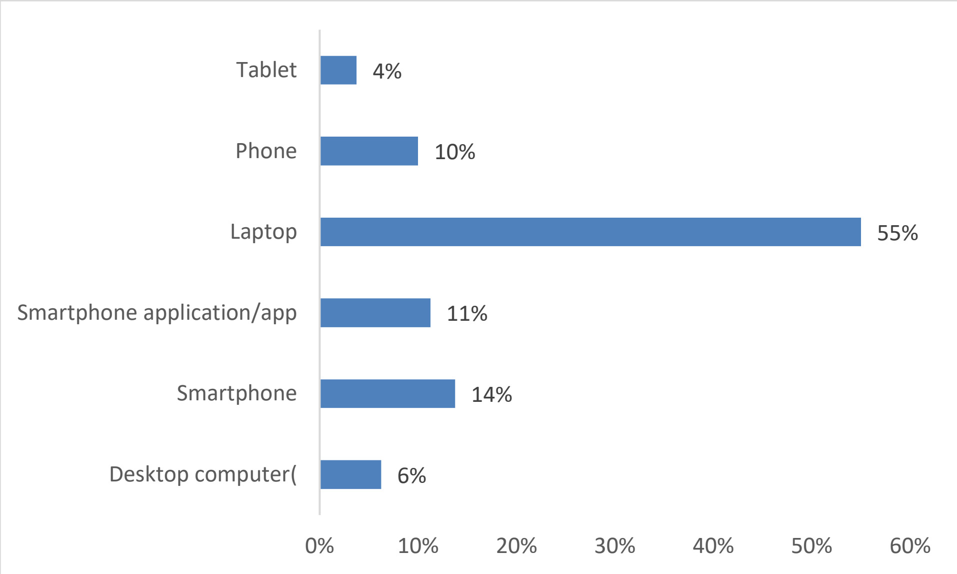
Table 82. Mystery shops by type of scenario and type of financial provider

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	**19**	100%	0%	0%
Smartphone app	**12**	17%	0%	83%
Online	**38**	47%	26%	26%
Phone	**11**	100%	0%	0%
Total (%)		63%	13%	25%
Total	**80**	**50**	**10**	**20**

Table 83. Mystery shops by Member State

Member State	Count
Belgium	8
Czechia	8
Finland	8
France	8
Germany	8
Ireland	8
Italy	8
Netherlands	8
Poland	8
Sweden	8
Total	**80**

Figure 64. Device used in the mystery shops



3.1.2 Scenarios

The segmentation per scenario was as follows:

- **Online**: 38 mystery shops were carried out in 10 countries. Of those, 47% were traditional financial providers, 26% were consolidators/brokers and the remaining 26% were FinTechs. Mystery shoppers primarily used a laptop (66%) or smartphone (21%). 8% used a tablet and 5% used a desktop computer.
- **Cross-border:** 19 mystery shops were carried out, all on traditional financial providers. Of those, 16 used a laptop and three used a desktop computer.
- **Smartphone app:** 12 mystery shops were carried out in the 10 countries. 17% were on traditional providers and 83% on FinTechs.
- **Phone:** 10 mystery shops were carried out on traditional financial providers in the 10 countries.

3.1.3 Questions

The following table provides an overview of the questions asked to the mystery shoppers and for which the results are presented in the next sections.

Table 84. Questions in the mystery shopping on money transfers

Stage / Question	Scenario
A. Stage: access	
Q111. Were you required to register online or create an online account to deal with the provider via their website?	Online
Q112. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?	Cross-border
Q113. Did you have to register/create an online account with the provider via their smartphone app?	Smartphone app
Q114. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?	Smartphone app

Q115. Was the provider's smartphone app free of charge? Did you have to be an existing customer to log in to the app?	Smartphone app
Q116. How long after completing and sending the online request form did the call take place?	Phone
B. Stage: awareness	
B1. Prerequisites/eligibility requirements for purchasing money transfer services from the provider	
Q117. Were any prerequisites/eligibility requirements specified to purchase money transfer services from the provider?	All
Q118. Minimum age (in years) required to purchase money transfer services from the provider	All
Q119. Were you required to be a resident in the provider's home to purchase money transfer services from the provider?	All
Q120. Were you required to hold a specific nationality to purchase money transfer services from the provider?	All
Q121. Were you required to be an existing customer to purchase money transfer services from the provider?	All
Q122. Was proof of ID required?	All
Q123. What proof of ID was required?	All
Q124. Was a minimum level of income required to purchase money transfer services from the provider?	All
Q125. Were you required to hold a bank account in the provider's home country apply?	All
B2. Pre-application process	
Q126. How was the pre-application information gathered and processed?	All
B3. Decision regarding pre-application	
Q127. Was your application rejected?	All
Q128. If your pre-application was rejected, what reasons were given by the provider for their decision?	All
C. Stage: consideration and purchase	
C1. Easy-to-use website and offers received	
Q129. Was it easy to search for different money transfer services on the provider's website?	Online, cross-border and smartphone app
Q130. How many different types of money transfers services were offered to you for purchase?	All
C2. Information on transfer services	
Q131. What information (about each type of service) was provided to help you to compare and select the money transfer service that best suited your needs?	All
Q132. Was this information easy to find?	Online, cross-border and smartphone app
Q133. Was this information easy to understand?	Online, cross-border and smartphone app
Q134. How was this information communicated to you?	Online, cross-border and smartphone app
Q135. Was the information provided spontaneously by the salesperson?	Phone

Q136. Was the information provided comprehensive and clear?	Phone
Q137. When was the information received?	Phone
Q138. Was it easy to compare the different types of transfer services on the basis of the information provided by the salesperson?	Phone
Q139. Did you advise the salesperson/provider of your preferred option during the call?	Phone
D. Other information disclosure during the purchase process	
D1. Information required from the mystery shopper	
Q140. As part of the purchase process, what information was required from you?	All
Q141. At what stage(s) of the purchase process was this information required from you?	All
D2. Information received about the provider	
Q142. As part of the purchase process, what information about the supplier was provided to you?	All
Q143. At what stage(s) of the purchase process was this information provided to you?	Online and Phone
Q144. How was this information communicated to you?	All
Q145. Was this information easy to understand?	All
Q146. Was this information easy to find?	Online, cross-border and smartphone app
Q147. Was the information presented in a format that was easy to read?	Smartphone app
Q148. Was the information provided spontaneously?	Phone
Q149. Did the salesperson seek your consent before sharing information about the desired product, the supplier, the distance contract, and forms of redress?	Phone
Q150. Did the salesperson inform you that additional information was available on request?	Phone
D3. Information relating to the terms/conditions of a prospective contract	
Q151. As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you?	All
Q152. Was this information easy to understand?	All
Q153. How was this information communicated to you?	All
Q154. Was this information easy to find?	Online, cross-border and smartphone app
Q155. At what stage(s) of the purchase process was this information provided to you?	Online, cross-border and smartphone app
Q156. Were you informed that the terms and conditions could change?	Online, cross-border and smartphone app
Q157. If yes, which ones?	Online, cross-border and smartphone app
Q158. How did you receive this information?	Phone
Q159. Where you informed that the terms and conditions could change?	Phone
E. Overall customer experience	

Q160. How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q161. How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q162. How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q163. When did you receive the final contract from the provider?	All
Q164. How did you receive the final contract from the provider?	All
Q165. How much time were you given to read and sign the contract?	All
Q166. How would you describe your overall customer experience in a few sentences?	All
Q167. Do you have any suggestions for improving the service or customer experience?	All

3.2 Results

This section presents the results of the mystery shopping exercise per scenario.

A. Stage: access

Online

Q1. Were you required to register online or create an online account to deal with the provider via their website?

In half of the mystery shops (19) the mystery shoppers had to register/create an account before they were, allowed to continue. In three cases registration was optional, while it was not required in the remaining 16 (42%).

In two mystery shops (out of 38) mystery shoppers were required to be an existing customer and the shop ended here.

Cross-border

Q2. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?

In one case, the non-domestic website of the provider was blocked, while in three cases, the mystery shoppers were redirected to the domestic or global website of the provider. For these three mystery shoppers (out of 19), the mystery shop ended at this stage.

Smartphone app

Q3. Did you have to register/create an online account with the provider via their smartphone app?

For 11 of the 12 mystery shops, it was compulsory to register. In the remaining case, registration was optional.

Q4. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?

9 mystery shoppers (75%) considered it 'very easy' to find and download the provider's smartphone app. One mystery shopper considered it 'quite easy, while another considered it 'very difficult'.

In one case the app was still in trial mode and the mystery shopper was informed that they should leave their details to be contacted later by the provider. This mystery shop ended at this stage.

Q5. Was the provider's smartphone app free of charge? Did you have to be an existing customer to log in to the app?

In all mystery shops (12), the app was free for any customer.

In half of the mystery shops, only existing customers could log in to the app and so these mystery shoppers could not proceed further.

Phone

Q6. How long after completing and sending the online request form did the call take place?

8 of the 11 mystery shoppers did not receive a follow-up call within the timeframe set for the research. For these mystery shoppers, the mystery shop ended at this stage.

The remaining three received a phone call up to five working days after submitting the request online.

B. Stage: awareness

B1. Prerequisites/eligibility requirements for purchasing money transfer services from the provider

Table 85. Q7: Were any prerequisites/eligibility requirements specified to purchase money transfer services from the provider? (select all that apply)

	Total	Cross-border	Smartphone app	Online	Phone*
Age/date of birth	25%	13%	83%	19%	33%
Country of residence	25%	6%	83%	22%	33%
Nationality	7%	6%	17%	3%	33%
Marital status	2%	0%	0%	3%	0%
Present relationship with provider (e.g. accounts already held)	10%	0%	17%	14%	0%
Income	0%	0%	0%	0%	0%
Proof of identity	3%	6%	17%	0%	0%
Proof of address	3%	6%	17%	0%	0%
Online registration with the provider	31%	6%	83%	31%	67%

Online registration with a third-party (e.g. an online dealing platform)	25%	13%	83%	19%	33%
Contact details/other personal details	25%	6%	83%	22%	33%
N	**61**	**16**	**6**	**36**	**3**

N=61

* In one out of three cases, the salesperson did not verify the eligibility of the mystery shopper for purchasing money transfer services.

In some cases, the mystery shoppers reported that the providers requested a bank statement or a bank account number.

Table 86. Q8: Minimum age (in years) required to purchase money transfer services from the provider

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
No limit	16	29%	27%	33%	26%	33%
18 years	40	71%	73%	50%	71%	67%
N	56		15	5	33	3

Table 87. Q9: Were you required to be a resident in the provider's home to purchase money transfer services from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	12	21%	33%	33%	12%	33%
No	46	79%	67%	67%	88%	67%
N	58		15	6	34	3

Table 88. Q10: Were you required to hold a specific nationality to purchase money transfer services from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	7	12%	0%	17%	14%	67%
No	53	88%	100%	83%	14%	33%
N	60		16	6	35	3

Table 89. Q11: Were you required to be an existing customer to purchase money transfer services from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	33	55%	69%	33%	51%	67%
No	27	45%	31%	67%	49%	33%
N	60		16	6	35	3

Table 90. Q12: Was proof of ID required?

	Total	Cross-border	Smartphone app	Online	Phone
Yes	19	4	1	12	2
%	31%	25%	17%	33%	67%

N=61

Table 91. Q13: What proof of ID was required? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Passport number	15	79%	4	0	9	2
National ID number	11	58%	2	0	8	1
Driving licence number	6	32%	2	0	3	1
Social security number	3	16%	0	1	2	0

N=19

Table 92. Q14: Was a minimum level of income required to purchase money transfer services from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	2	4%	0%	0%	6%	0%
No	54	96%	100%	100%	94%	100%
N	56		16	6	33	1

Table 93. Q15: Were you required to hold a bank account in the provider's home country apply?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone

Yes	15	27%	19%	17%	33%	0%
No	41	73%	81%	83%	67%	33%
N	56		16	6	33	1

6.1.5 B2. Pre-application process

Table 94. Q1: How was the pre-application information gathered and processed?

	Total	Total (%)	Cross-border*	Smartphone app	Online
I provided my details online, they were processed automatically and I received an instant response on whether I could apply	32	57%	7	6	19
I provided my details via an online form and received a response by email at a later date	4	7%	2	0	2
I provided my details via an online form and received a response by post at a later date	0	0%	0	0	0
It was not possible to start the application online and a contact number was provided to apply by phone	12	21%	5	0	7
It was not possible to start the application online and a branch address was provided to apply in person	8	14%	2	0	6

N=56

6.1.6 B3. Decision regarding pre-application

Only 41 mystery shoppers managed to submit their application successfully (five from the cross-border scenario, six from the smartphone app scenario, 23 from the online scenario and four from the phone scenario).

Of those, 15 (25%) had their applications rejected:

- 7 out of 9 (78%) from the cross-border scenario;
- 1 out of 6 (17%) from the smartphone app scenario;
- 5 out of 23 (22%) from the online scenario;
- 2 out of 3 (66%) from the phone scenario.

Table 95. Q1: If your pre-application was rejected, what reasons were given by the provider for their decision? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
One or more of the eligibility requirements were not met	7	54%	5	1	1
Incorrect information was provided	3	23%	2	1	0
Insufficient information was provided	5	38%	2	0	3
Other	1	8%	0	0	1

N=13

Of the 41 that submitted their pre-application, two from the phone scenario were told that the operation was only possible at the branch, while one of the online mystery shoppers needed to be an existing client before proceeding.

C. Stage: consideration and purchase

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	**9**	100%	0%	0%
Smartphone app	**6**	0%	0%	100%
Online	**22**	41%	32%	27%
Phone	**1**	100%	0%	0%
Total (%)		50%	18%	32%
Total	**38**	**19**	**7**	**12**

For the various reasons outlined above:

- Of the 38 mystery shops in the online scenario, only 22 (58%) got to this stage;
- Of the 19 mystery shops in the cross-border scenario, only 9 (47%) got to this stage;
- Of the 12 mystery shops in the smartphone app scenario, only 6 (50%) got to this stage;
- Of the 10 mystery shops in the phone scenario, only 1 (10%) got to this stage.

6.1.7 C1. Easy-to-use website and offers received

Table 96. Q19: Was it easy to search for different money transfer services on the provider's website?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Very easy	18	50%	2	5	11	N/A

Quite easy	13	36%	6	1	6	N/A
Quite difficult	1	3%	0	0	1	N/A
Very difficult	4	11%	0	0	4	N/A

**N/A: the question was not asked in that scenario*

N= 26 (one mystery shopper from the cross-border scenario did not answer this question)

Table 97. Q20: How many different types of money transfers services were offered to you for purchase?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
<5 different types of money transfer services	36	95%	9	6	20	1
5-10 different types of money transfer services	2	5%	0	0	2	0
>10 different types of money transfer services	0	0%	0	0	0	0

N=38

6.1.8 C2. Information on transfer services

Table 98. Q21: What information (about each type of service) was provided to help you to compare and select the money transfer service that best suited your needs? (select all that apply)

	Total		Cross-border	Smartphone app	Online	Phone
Minimum transfer required	10	26%	3	1	5	1
Transfer fees payable to the provider	26	68%	6	4	15	1
Exchange rates (if applicable)	22	58%	4	5	12	1
Modes of transfer (e.g. online, by phone, etc.)	27	71%	7	4	15	1
Transfer options (e.g. single payments, regular payments, etc.)	17	45%	5	1	10	1
Minimum repayment amounts	3	8%	2	0	1	0
Provision of additional tailored services (e.g. designation of a personal account manager)	5	13%	2	0	3	0

Additional fees/expenses associated with additional services payable to the provider	4	11%	0	1	3	0
Any additional costs relating to the use of a distance means of purchase payable to the provider	1	3%	0	0	1	0
Any other fees, charges, and expenses not payable to the provider but that may apply	5	13%	0	1	4	0
Any restrictions to the period or amount of time for which the information provided is valid	2	5%	0	0	2	0

N=38

Online, cross-border and smartphone app scenarios

Table 99. Q22: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	12	32%	1	5	6
Quite easy	18	49%	7	1	10
Quite difficult	2	5%	1	0	1
Very difficult	5	14%	0	0	5

N=37

Table 100. Q23: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	20	54%	5	6	9
Quite easy	12	32%	4	0	8
Quite difficult	2	5%	0	0	2
Very difficult	3	8%	0	0	3

N=37

* Five mystery shoppers in the smartphone app scenario indicated that the information was presented in a format that was 'very easy' to view and read, while the other mystery shopper found it 'quite easy'.

Table 101. Q24: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	24	65%	7	3	14
During the search for money transfer services	22	59%	6	3	13
After finding and selecting a money transfer service for purchase	12	32%	3	1	8
With the agreement/contract	5	14%	0	0	5

N=19 (One mystery shopper did not answer this question)

In all cases, the information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.). Additionally, one mystery shopper from the online scenario received the information by email.

Phone scenario

Some questions relating to the information provided about money transfers were asked only in the phone scenario. The only mystery shopper that got to this phase of the process reported that:

- The information was provided spontaneously by the salesperson;
- The information provided on each service was comprehensive and clear;
- The information was received during the first call, verbally;
- They found it 'quite easy' to compare the different types of transfer services on the basis of the information provided by the salesperson;
- They advised the salesperson/provider of their preferred option during the call.

D. Other information disclosure during the purchase process

D1. Information required from the mystery shopper

Table 102. Q30: As part of the purchase process, what information was required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Name	33	87%	8	6	18	1
Email address	33	87%	7	6	19	1
Phone number	30	79%	8	4	17	1
Country of residence/home address	28	74%	7	4	16	1
Nationality	13	34%	3	0	9	1
ID	11	29%	3	1	7	0

Date of birth/age	26	68%	6	5	15	0
Marital status	2	5%	1	0	1	0
Employment status	2	5%	0	0	2	0
Income	1	3%	0	0	1	0

N=38

In three cases, mystery shoppers were asked for their credit card details, while two others were asked for their bank account details.

Table 103. Q31: At what stage(s) of the purchase process was this information required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Pre-application, when assessing eligibility to apply	26	70%	7	5	14	During the first call (or a follow-up call, if applicable), verbally
During the search for transfer services	8	22%	1	2	5	
After finding and selecting a specific transfer service for purchase	15	41%	5	1	9	
With the agreement/contract	4	11%	0	0	4	

N=38

6.1.9 D2. Information received about the provider

Table 104. Q32: As part of the purchase process, what information about the supplier was provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Identity of the supplier	32	84%	7	4	20	1
Main business of the supplier	27	71%	6	3	17	1
Geographical address at which the supplier is established (and any other relevant geographical address)	23	61%	5	1	16	1
Identity of the sales representative, if applicable	0	0%	0	0	0	0
Geographical address at which the sales	2	5%	1	0	1	0

representative is based, if applicable						
Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	1	3%	0	0	1	0
Capacity in which the professional is acting (i.e. the role played by the professional during the purchase process), if applicable	3	8%	2	0	1	0
Geographical address at which the professional is based, if applicable	2	5%	0	1	1	0
Public or trade register on which the supplier features	8	21%	2	0	6	0
Supplier's registration number or an equivalent means of identification in the public or trade register	9	24%	2	0	7	0
Particulars of the supervisory authority regulating the supplier's activities	14	37%	4	1	9	0

N=38

Table 105. Q33: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Online	Phone
Pre-application, when assessing eligibility to apply	17	81%	During the first call
During the search for transfer services	10	48%	
After finding and selecting a specific transfer service for purchase	9	43%	
With the agreement/contract	6	29%	
Total	21		1

Table 106. Q34: How was this information communicated to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	36	97%	9	6	21	0
Information was emailed separately	2	5%	0	0	2	0
Information was sent by post	0	0%	0	0	0	0
Information was shared during a scheduled call with a representative	1	3%	0	0	0	1

N=37

Table 107. Q35: Was this information easy to understand? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Very easy	21	57%	6	3	12	0
Quite easy	11	30%	2	3	5	1
Quite difficult	2	5%	0	0	2	0
Very difficult	3	8%	1	0	2	0

N=37 (one mystery shopper from the online scenario did not receive this information)

Online, cross-border and smartphone app scenarios

Table 108. Q36: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	8	22%	1	2	5
Quite easy	21	58%	7	3	11
Quite difficult	4	11%	0	1	3
Very difficult	3	8%	1	0	2

N=36 (one mystery shopper from the online scenario did not get this information)

* One mystery shopper from the smartphone app scenario indicated that the information was presented in a format that was 'very easy' to read, while the other five mystery shoppers found it 'quite easy'.

Phone scenario

For information about the provider, the mystery shopper from the phone scenario reported that:

- The information was provided spontaneously;
- The salesperson sought the consent of the mystery shopper before sharing information about the desired product, the supplier, the distance contract, and forms of redress;
- The salesperson did not inform them that additional information was available on request.

6.1.10D3. Information relating to the terms/conditions of a prospective contract

In 13 mystery shops (four cross-border, two smartphone app and seven online scenarios), information relating to terms and conditions was not provided/available.

Table 109. Q41: As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Existence of a right of withdrawal	18	47%	4	2	11	1
Permitted timeframe for withdrawal	13	34%	1	3	9	0
Conditions for exercising the right of withdrawal	15	39%	3	2	9	1
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	14	37%	4	2	8	0
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	9	24%	1	2	5	1
Language(s) in which the contractual terms and conditions, and any prior information will be made available	11	29%	1	1	8	1
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	8	21%	1	2	4	1

Methods of access to the relevant out-of-court complaints and redress mechanism(s)	9	24%	1	1	7	0

N=38

* 13 mystery shoppers did not receive any of the above information.

Table 110. Q42: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online	Phone
Very easy	7	29%	3	0	4	0
Quite easy	14	58%	2	3	8	1
Quite difficult	2	8%	0	1	1	0
Very difficult	1	4%	0	0	1	0

N=24

Table 111. Q43: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	23	96%	5	4	14	0
Information was emailed separately	2	8%	0	0	2	0
Information was sent by post	0	0%	0	0	0	0
Information was shared during a scheduled call with a representative	1	4%	0	0	0	1

N=24

Online, cross-border and smartphone app scenarios

Table 112. Q44: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	3	8%	2	0	1
Quite easy	13	36%	2	3	8

Quite difficult	6	17%	1	1	4
Very difficult*	14	39%	4	2	8

N=36

* 13 mystery shoppers never found/received this information

Table 113. Q45: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	20	87%	5	4	11
During the search for money transfer services	12	52%	1	1	10
After finding and selecting a money transfer service for purchase	9	39%	1	1	7
With the agreement/contract	7	30%	0	1	6

N=23

Table 114. Q46: Were you informed that the terms and conditions could change?

	Total	Cross-border	Smartphone app	Online
Yes	9	0	1	8
Yes (%)	24%	0%	17%	36%

Table 115. Q47. If yes, which ones? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Existence of a right of withdrawal	6	67%	0	1	5
Permitted timeframe for withdrawal	7	78%	0	1	6
Conditions for exercising the right of withdrawal	7	78%	0	1	6
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	6	67%	0	1	5

Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	5	56%	0	1	4
Language(s) in which the contractual terms and conditions, and any prior information will be made available	4	44%	0	1	3
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	4	44%	0	1	3
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	6	67%	0	1	5

N=9

Phone scenario

The mystery shopper received this information verbally during a phone call and was informed that the contract terms/conditions could change due to factors within and/or beyond the control of the provider, namely the existence of the right of withdrawal.

E. Overall customer experience

Table 116. Q50: How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	4	11%	1	0	3	0
2 - Fair	6	16%	0	2	4	0
3 - Good	13	34%	7	1	5	0
4 - Very good	12	32%	1	3	7	1
5 - Excellent	3	8%	0	0	3	0

N=38

Table 117. Q51: How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
1 - Poor	4	11%	1	0	3	0
2 - Fair	8	21%	1	2	5	0
3 - Good	9	24%	5	1	3	0
4 - Very good	14	37%	2	3	8	1
5 - Excellent	3	8%	0	0	3	0

N=38

Table 118. Q52: How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	3	8%	1	0	2	0
2 - Fair	9	24%	2	2	5	0
3 - Good	13	34%	5	2	6	0
4 - Very good	11	29%	1	2	7	1
5 - Excellent	2	5%	0	0	2	0

N=38

Table 119. Q53: When did you receive the final contract from the provider? Please indicate the number of days between first visiting the provider's website and receiving the final contract? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Within five working days	16	42%	2	2	12	0
I did not receive it within the time of research	22	58%	7	4	10	1

N=38

Table 120. Q54: How did you receive the final contract from the provider? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Via online account set up with the provider	11	69%	2	2	7	0
By email	5	31%	0	0	5	0
By post	0	0%	0	0	0	0

N=16

Table 121. Q55: How much time were you given to read and sign the contract? Please indicate the number of days between receiving the final contract and the deadline set for submitting the signed contract to the provider (select one option)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Up to 5 working days	15	94%	2	2	11	0
Between 5 and 10 working days	0	0%	0	0	0	0
More than 10 working days	1	6%	0	0	1	0

N=16

Other points:

- None of the mystery shoppers reported having felt pressured (e.g. to select a particular policy, sign an agreement, etc.).
- Eight of 22 of the mystery shoppers from the online scenario reported having had a less positive experience because the website was confusing and poorly structured (two), there was not much information available or it was difficult to find (six). The remainder indicated that the website was user-friendly and the information easy to find and understand.
- In the cross-border scenario, two mystery shoppers considered their experience less positive due to lack of information. All others reported positive experiences.
- In the smartphone app scenario, all mystery shoppers had very positive experiences.
- In the phone scenario, the mystery shopper reported a very positive experience. However, in the end, they had to go to a branch to finalise the operation.
- Mystery shoppers recommended the following:
  - Terms and conditions should be more readily available to the customer;
  - Information about the products and consumer rights should be accessible and easy to find;
  - Better customer support service.

Mystery shopping 4: Stocks

In this section we present the results of the mystery shopping exercise where mystery shoppers simulated the acquisition of stocks. As mentioned before, when presenting the results, we often indicate percentages. Sometimes the presented percentages do not add to 100% because of the need to round up/down numbers.

4.1 Overview

In this section we provide an overview of the respondents' profile, a summary of the segmentation per scenario (i.e., online, cross-border, smartphone app and phone) and a list of the questions asked to the mystery shoppers that simulated the acquisition of stocks.

4.1.1 Respondent profile

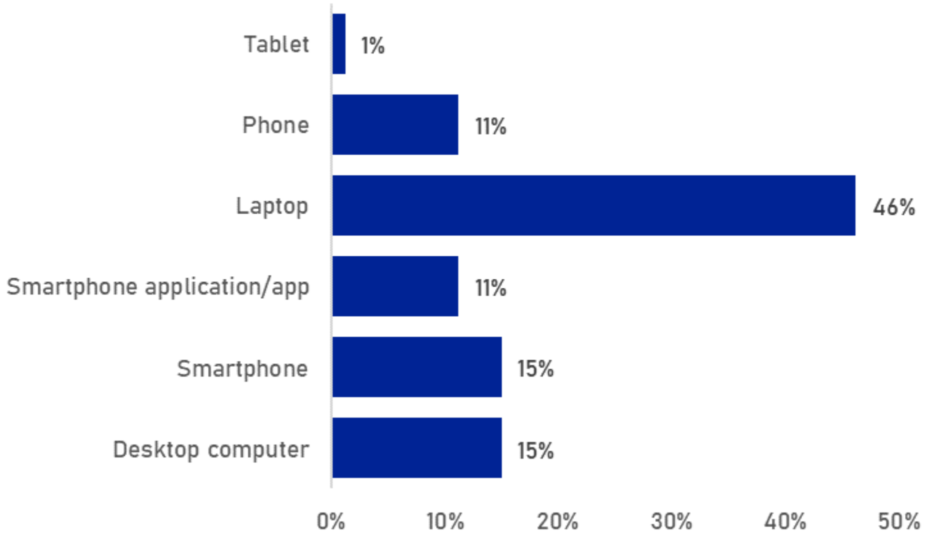
Table 122. Mystery shops by type of scenario and type of financial provider

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	**20**	95%	5%	0%
Smartphone app	**12**	17%	0%	83%
Online	**38**	50%	24%	26%
Phone	**10**	100%	0%	0%
Total (%)		63%	13%	25%
Total	**80**	**50**	**10**	**20**

Table 123. Mystery shops by Member State

Member State	Count
Belgium	8
Czechia	8
Finland	8
France	8
Germany	8
Ireland	8
Italy	8
Netherlands	8
Poland	8
Sweden	8
Total	**80**

Figure 65. Device used in the mystery shops



4.1.2 Scenarios

The segmentation per scenario was as follows:

- **Online**: 38 mystery shops were carried out in 10 countries. Of those, 50% were traditional financial providers, 24% were consolidators/brokers and the remaining 26% were FinTechs. Mystery shoppers primarily used their laptop (58%), desktop computer (21%) and smartphone (18%), while 3% used a tablet. In one case, the website the mystery shopper could not register due to a problem with the website and was not unable to carry out their mystery shop.
- **Cross-border**: 20 mystery shops were carried out, 95% on traditional financial providers and 5% on consolidators/brokers in the 10 countries. Of those, 15 used a laptop and five used a desktop computer.
- **Smartphone app**: 12 mystery shops were carried out in the 10 countries, 17% on traditional providers and 83% on FinTechs. One mystery shopper did not manage to download the app.
- **Phone**: 10 mystery shops were carried out on traditional financial providers in the 10 countries.

4.1.3 Questions

The following table provides an overview of the questions asked to the mystery shoppers and for which the results are presented in the next sections.

Table 124. Questions in the mystery shopping on Stocks

Stage / Question	Scenario
A. Stage: access	
Q168. Were you required to register online or create an online account to deal with the provider via their website?	Online
Q169. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?	Cross-border
Q170. Did you register directly with the provider?	Cross-border
Q171. Did you have to register/create an online account with the provider via their smartphone app?	Smartphone app

Q172. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?	Smartphone app
Q173. Was the provider's smartphone app free of charge?	Smartphone app
Q174. How long after completing and sending the online request form did the call take place?	Phone
B. Stage: awareness	
B1. Prerequisites/eligibility requirements specified to buy stocks/shares from the provider	
Q175. Were any prerequisites/eligibility requirements specified to buy stocks/shares from the provider?	All
Q176. Minimum age (in years) required to buy stocks/shares from the provider	All
Q177. Were you required to be a resident in the provider's home country to buy stocks/shares from the provider?	All
Q178. Were you required to hold a specific nationality to buy stocks/shares from the provider?	All
Q179. Were you required to be an existing customer to buy stocks/shares from the provider?	All
Q180. What proof of ID was required?	All
B2. Pre-application process	
Q181. How was the pre-application information gathered and processed?	Online, cross-border and smartphone app
B3. Decision on pre-application	
Q182. Was your application rejected?	All
Q183. If your pre-application was rejected, what reasons were given by the provider for their decision?	All
C. Stage: consideration and purchase	
C1. Easy-to-use website and offers received	
Q184. Was it easy to search for different types of stocks/shares on the provider's website?	Online, cross-border and smartphone app
Q185. How many different types of stocks/shares were offered to you for purchase?	All
C2. Information on stocks	
Q186. What information (on each type of stock) was provided to help you to compare and select the account that best suited your needs?	
Q187. Was this information easy to find?	Online, cross-border and smartphone app
Q188. Was this information easy to understand?	Online, cross-border and smartphone app
Q189. Was the information presented in a format that was easy to read?	Smartphone app
Q190. How was this information communicated to you?	Online, cross-border and smartphone app
Q191. Was the information provided spontaneously by the salesperson?	Phone
Q192. Was the information provided on each stock/share class comprehensive and clear?	Phone
Q193. When did you receive the information?	Phone
Q194. Was it easy to compare the different types of stocks on the basis of the information provided by the salesperson?	Phone

Q195. How dd you advise the salesperson/provider of your preferred option?	Phone
D. Other information disclosure during the purchase process	
D1. Information required from the mystery shopper	
Q196. As part of the purchase process, what information was required from you?	All
Q197. At what stage(s) of the purchase process was this information required from you?	All
D2. Information received about the provider	
Q198. As part of the purchase process, what information about the supplier was provided to you?	All
Q199. At what stage(s) of the purchase process was this information provided to you?	All
Q200. How was this information communicated to you?	All
Q201. Was this information easy to understand?	All
Q202. Was this information easy to find?	Online, cross-border and smartphone app
Q203. Was the information presented in a format that was easy to read?	Smartphone app
Q204. Was the information provided spontaneously?	Phone
Q205. Did the salesperson seek your consent before sharing information about the desired product, the supplier, the distance contract, and forms of redress?	Phone
Q206. Were you informed by the salesperson that additional information was available on request?	Phone
D3. Information relating to the terms/conditions of a prospective contract	
Q207. As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you?	All
Q208. Was this information easy to understand?	All
Q209. How was this information communicated to you?	All
Q210. Were you informed that the terms and conditions could change?	All
Q211. Which terms and conditions that could change	All
Q212. Was this information easy to find?	Online, cross-border and smartphone app
Q213. Was each piece of information provided in a format that was easy to view and read?	Smartphone app
Q214. At what stage(s) of the purchase process was this information provided to you?	Online, cross-border and smartphone app
Q215. How did you receive this information?	Phone
E. Overall customer experience	
Q216. How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q217. How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q218. How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All

Q219.	When did you receive the final contract from the provider?	All
Q220.	How did you receive the final contract from the provider?	All
Q221.	How much time were you given to read and sign the contract?	All
Q222.	How would you describe your overall customer experience in a few sentences?	All
Q223.	Do you have any suggestions for improving the service or customer experience?	All

4.2 Results

This section presents the results of the mystery shopping exercise per scenario.

A. Stage: access

Online

Q1. Were you required to register online or create an online account to deal with the provider via their website?

In 29 cases (out of 37), the mystery shoppers had to register/create an account before they were allowed to continue. In two cases, registration was optional, in five cases it was not required, and in one case it was not possible, with the provider instead recommending a visit to a branch (the mystery shop ended at this stage).

For two mystery shoppers, a copy of their ID was required to proceed and consequently the mystery shop ended at this stage.

Cross-border

Q2. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?

In one case, the non-domestic website of the provider was blocked, while in six cases the mystery shoppers were redirected to the domestic or global website of the provider. For these six mystery shoppers the mystery shop ended at this stage.

Q3. Did you register directly with the provider?

12 of 14 mystery shoppers created an online account to deal with the provider. The other two were required to create an online account to deal with a third-party (e.g. an online dealing platform).

Smartphone app

Q4. Did you have to register/create an online account with the provider via their smartphone app?

In 10 of the 11 mystery shops it was compulsory to register. In two cases, only existing customers could register and therefore the mystery shop ended at this stage.

Q5. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?

All mystery shoppers considered it very easy to find and download the provider's smartphone app.

Q6. Was the provider's smartphone app free of charge?

For 9 of 11 mystery shoppers, the app was free for any customer. For one it was free for all customers but only for some services, while in another case it had 'free use of basic services but a payment fee applied for add-on services for all users'.

Phone

Q7. How long after completing and sending the online request form did the call take place?

Six of the mystery shoppers did not receive a follow-up call within the timeframe set for the research. For these mystery shoppers the mystery shop ended at this stage.

The remaining four received a phone call up to five working days after submitting the request online.

B. Stage: awareness

6.1.11 B1. Prerequisites/eligibility requirements specified to buy stocks/shares from the provider

Table 125. Q8: Were any prerequisites/eligibility requirements specified to buy stocks/shares from the provider? (select all that apply)

	Total	Cross-border	Smartphone app	Online	Phone
Age/date of birth	57%	36%	67%	59%	100%
Country of residence	43%	21%	44%	50%	50%
Nationality	44%	29%	56%	47%	50%
Marital status	11%	7%	0%	18%	0%
Present relationship with provider (e.g. accounts already held)	21%	50%	0%	15%	25%
Income	18%	29%	11%	15%	25%
Proof of identity	43%	21%	44%	47%	75%
Proof of address	16%	7%	11%	24%	0%
Online registration with the provider	44%	36%	56%	47%	25%
Online registration with a third-party (e.g. an online dealing platform)	3%	0%	11%	3%	0%
Contact details/other personal details	48%	29%	67%	53%	25%
N	**61**	**14**	**9**	**34**	**4**

N=61

Table 126. Q9: Minimum age (in years) required to buy stocks/shares from the provider

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
No limit	10	16%	7%	22%	18%	25%
18 years	51	84%	93%	78%	82%	75%

N=61

Table 127. Q10: Were you required to be a resident in the provider's home country to buy stocks/shares from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	22	36%	43%	22%	35%	50%
No	39	64%	57%	78%	65%	50%

N=61

In the cross-border scenario this was explicitly mentioned in two cases only, while the other four mystery shoppers found out about this restriction when they experienced problems filling in the registration:

- 'Only the default option "Belgium" is available and cannot be changed'.
- 'It was not possible to proceed with the online application without inserting a valid Dutch mobile phone number'.
- 'Without a Swedish social security number it was not possible to proceed further'.
- 'A German address could not be entered during the process'.

Table 128. Q11: Were you required to hold a specific nationality to buy stocks/shares from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	16	26%	14%	33%	26%	50%
No	45	74%	86%	67%	74%	50%

N=61

Table 129. Q12: Were you required to be an existing customer to buy stocks/shares from the provider?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Yes	36	59%	64%	44%	59%	75%
No	25	41%	36%	56%	41%	25%

N=61

Table 130. Q13: What proof of ID was required? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Passport number	18	30%	21%	56%	26%	25%
National ID number	22	36%	57%	33%	26%	50%
Driving licence number	4	7%	7%	22%	3%	0%
Social security number	16	26%	29%	11%	26%	50%
Other	25	41%	36%	33%	50%	0%

N=61

6.1.12B2. Pre-application process

Table 131. Q14: How was the pre-application information gathered and processed?

	Total	Total (%)	Cross-border*	Smartphone app	Online
I provided my details online, they were processed automatically and I received an instant response on whether I could apply	29	48%	4	6	19**
I provided my details via an online form and received a response by email at a later date	4	7%	1	0	3
I provided my details via an online form and received a response by post at a later date	1	2%	0	0	1
It was not possible to start the application online and a contact number was provided to apply by phone	11	18%	4	1	6

It was not possible to start the application online and a branch address was provided to apply in person	11	18%	4	2	5

N=60

*One mystery shopper indicated that they inserted the information but were then informed that they had to register with another provider on their website. That provider requested personal information and the mystery shop exercise ended at this stage.

**One mystery shopper received information that stated they had to pay to continue. The mystery shopper ended the mystery shop at that stage.

6.1.13B3. Decision on pre-application

Only 38 mystery shoppers submitted their application successfully (five from the cross-border scenario, six from the smartphone app scenario, 23 from the online scenario and four from the phone scenario).

Of those, 13 (38%) had their applications rejected:

- 2 out of 5 (40%) in the cross-border scenario;
- 3 out of 6 (50%) in the smartphone app scenario;
- 8 out of 23 (35%) in the online scenario.

Table 132. Q16: If your pre-application was rejected, what reasons were given by the provider for their decision? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
One or more of the eligibility requirements were not met	5	38%	2	0	3
Incorrect information was provided	0	0%	0	0	0
Insufficient information was provided	8	62%	0	3	5

N=13

C. Stage: consideration and purchase

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	3	100%	0%	0%
Smartphone app	3	0%	0%	100%
Online	14	43%	21%	36%
Phone	4	100%	0%	0%
Total (%)		54%	13%	33%
Total	**24**	**13**	**3**	**8**

For the various reasons outlined above:

- Of the 38 mystery shops in the online scenario, only 14 (37%) got to this stage;
- Of the 20 mystery shops in the cross-border scenario, only 3 (15%) got to this stage;
- Of the 12 mystery shops in the smartphone app scenario, only 3 (25%) got to this stage;
- Of the 10 mystery shops in the phone scenario, only 4 (40%) got to this stage.

6.1.14C1. Easy-to-use website and offers received

Table 133. Q17: Was it easy to search for different types of stocks/shares on the provider's website?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Very easy	8	42%	33%	33%	46%	N/A
Quite easy	9	47%	67%	67%	38%	N/A
Quite difficult	2	11%	0%	0%	15%	N/A
Very difficult	0	0%	0%	0%	0%	N/A

**N/A: the question was not asked in that scenario*

N= 19 (one mystery shopper did not answer)

Table 134. Q18: How many different types of stocks/shares were offered to you for purchase?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
<5 different stock/share classes	12	52%	1	2	8	1
5-10 different stock / share classes	5	22%	1	0	3	1
>10 different stock/share classes	6	26%	1	1	2	2

N=23 (one mystery shopper did not answer)

6.1.15C2. Information on stocks

Table 135. Q19: What information (on each type of stock) was provided to help you to compare and select the account that best suited your needs? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
A description of the main characteristics of the stock/share class (e.g. voting rights, possibility of dividend payment, risks, etc.)	15	63%	1	2	8	4
Any fees, charges, and expenses payable to the provider	14	58%	1	1	8	4
Any additional cost relating to the use of a distance means of purchase payable to the provider	8	33%	1	0	5	2
Any other fees, charges, and expenses not payable to the provider but that may apply (e.g. fees for third-parties, taxes on dividend payments, etc.)	4	17%	0	1	2	1
Any restrictions to the period or amount of time for which the information provided is valid	4	17%	0	0	3	1

N=24

Online, cross-border and smartphone app scenarios

Table 136. Q20: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	6	32%	1	1	4
Quite easy	11	58%	2	1	8
Quite difficult	1	5%	0	0	1
Very difficult	1	5%	0	1	0

N=19

Table 137. Q21: Was this information easy to understand? (select one option)

	Total	Total (%)	Smartphone app*	Online
Very easy	5	26%	1	0
Quite easy	9	47%	2	2
Quite difficult	4	21%	0	0
Very difficult	1	5%	0	1

N=19

*Two mystery shoppers from the smartphone app scenario indicated that the information was presented in a format that was 'quite easy' to read, while the other mystery shopper found it 'very difficult'.

Table 138. Q23: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	10	53%	3	1	6
During the search for stocks/shares	12	63%	2	1	9
After finding and selecting a specific stock/share class for purchase	3	16%	0	1	2
With the agreement/contract	2	11%	0	0	2

N=19 (one mystery shopper did not answer this question)

In all but one case, the information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.). In that single case, the information was emailed separately.

Phone scenario

Some questions related to the information on stocks were asked only in the phone scenario. These are the results:

- In three mystery shops, the information was provided spontaneously by the salesperson, while in one case the mystery shopper had to request the information from the salesperson;
- Three mystery shoppers considered the information provided on each stock/share class to be comprehensive and clear, while one indicated that little information was provided on each stock/share class, which was not enough to allow for an informed purchase decision;
- All received the information during the call;
- Three mystery shoppers found it 'quite easy' to compare the different types of stocks on the basis of the information provided by the salesperson, while one considered it 'very difficult';

- All mystery shoppers advised the salesperson/provider of their preferred option for the stocks during the call. In one case, the shopper was required to do so, while in the other three cases there was no specific timeframe within which to do it.

D. Other information disclosure during the purchase process

D1. Information required from the mystery shopper

Table 139. Q29: As part of the purchase process, what information was required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Name	21	88%	3	1	13	4
Email address	21	88%	3	1	14	3
Phone number	18	75%	3	1	10	4
Country of residence/home address	18	75%	0	0	0	0
Nationality	17	71%	3	1	11	2
ID	17	71%	3	1	9	4
Date of birth/age	19	79%	3	1	12	3
Marital status	3	13%	1	0	2	0
Employment status	11	46%	3	1	5	2
Income	6	25%	2	0	3	1

N=24

Other information requested of some mystery shoppers was whether or not they had savings available for trading (one case) and where they pay taxes. In another case, their knowledge of trading was tested.

Table 140. Q30: At what stage(s) of the purchase process was this information required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Pre-application, when assessing eligibility to apply	15	75%	2	2	11	4
During the search for stocks/shares	3	15%	0	0	3	0
After finding and selecting a specific stock/share class for purchase	3	15%	0	1	2	

With the agreement/contract	4	20%	2	0	2	1

* All mystery shoppers in the phone scenario communicated this information verbally during a call, first or follow-up.

N=24

6.1.16D2. Information received about the provider

Table 141. Q31: As part of the purchase process, what information about the supplier was provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone*
Identity of the supplier	20	83%	2	2	12	4
Main business of the supplier	10	42%	1	1	7	1
Geographical address at which the supplier is established (and any other relevant geographical address)	13	54%	2	1	9	1
Identity of the sales representative, if applicable	4	17%	0	0	4	0
Geographical address at which the sales representative is based, if applicable	5	21%	1	0	3	1
Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	2	8%	0	0	2	0
Capacity in which the professional is acting (i.e. the role played by the professional during the purchase process), if applicable	3	13%	0	0	3	0
Geographical address at which the professional is based, if applicable	5	21%	1	0	4	0
Public or trade register on which the supplier features	8	33%	2	0	6	0
Supplier's registration number or an equivalent means of identification in the public or trade register	5	21%	0	0	5	0
Particulars of the supervisory authority	4	17%	0	0	4	0

regulating the supplier's activities

N=24

Table 142. Q32: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Pre-application, when assessing eligibility to apply	12	60%	2	1	9	During the first call
During the search for stocks/shares	8	40%	0	2	6	
After finding and selecting a specific stock/share class for purchase	3	15%	0	1	2	
With the agreement/contract	3	15%	1	0	2	
Total	20					4

Table 143. Q33: How was this information communicated to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	19	79%	3	3	13	0
Information was emailed separately	1	4%	0	0	1	0
Information was sent by post	1	4%	0	0	1	0
Information was shared during a scheduled call with a representative	4	17%	0	0	0	4

N=24

Table 144. Q34: Was this information easy to understand? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Very easy	4	17%	0	0	3	1
Quite easy	17	71%	3	2	9	3
Quite difficult	2	8%	0	0	2	0
Very difficult	1	4%	0	1	0	0

N=24

Online, cross-border and smartphone app scenarios

Table 145. Q35. Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	3	15%	0	0	3
Quite easy	14	70%	3	2	9
Quite difficult	2	10%	0	0	2
Very difficult	1	5%	0	1	0

N=20

* Two mystery shoppers in the smartphone app scenario indicated that the information was presented in a format that was 'quite easy' to read, while the other mystery shopper found it 'very difficult'.

Phone scenario

On information about the provider:

- The information was provided spontaneously in the four mystery shops;
- In two cases, the salesperson sought the consent of the mystery shopper before sharing information about the desired product, the supplier, the distance contract, and forms of redress. That did not happen in the other two mystery shops;
- Three mystery shoppers were informed by the salesperson that additional information was available on request, while one was not.

6.1.17D3. Information relating to the terms/conditions of a prospective contract

In five mystery shops (smartphone app scenario), information relating to terms and conditions was not provided/available. A link to the general terms and conditions was provided in one case.

Table 146. Q40: As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Existence of a right of withdrawal	14	58%	3	1	7	3
Permitted timeframe for withdrawal	8	33%	1	0	5	2
Conditions for exercising the right of withdrawal	6	25%	0	0	5	1
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	5	21%	0	0	4	1
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	5	21%	1	0	4	0
Language(s) in which the contractual terms and conditions, and any prior information will be made available	3	13%	0	0	3	0
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	3	13%	1	0	2	0
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	5	21%	1	0	4	0

N=24

* 10 mystery shoppers did not receive any of the above information, one from the phone scenario, two from the smartphone app scenario and seven from the online scenario.

Table 147. Q41: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online	Phone
Very easy	4	29%	0	0	2	2
Quite easy	6	43%	1	1	3	1
Quite difficult	4	29%	2	0	2	0

Very difficult	0	0%	0	0	0	0

N=14

Table 148. Q42: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	11	79%	3	1	7	0
Information was emailed separately	0	0%	0	0	0	0
Information was sent by post	0	0%	0	0	0	0
Information was shared during a scheduled call with a representative	3	21%	0	0	0	3

N=14

On the possible changes to terms and conditions, of 14 mystery shoppers:

- Four from the online scenario were informed that the terms and conditions could change (see Table 149 below);
- No mystery shopper was informed that the terms and conditions could change on the basis of their nationality;
- Only one mystery shopper in the online scenario was informed that the contract terms/conditions could change on the basis of their country of residence.

Table 149. Q44: Which terms and conditions may change?

	General	Based on residence
Existence of a right of withdrawal	3	1
Permitted timeframe for withdrawal	3	1
Conditions for exercising the right of withdrawal	2	1
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	2	1
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	2	1

Language(s) in which the contractual terms and conditions, and any prior information will be made available	2	0
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	1	0
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	2	1

N=4, 1

Online, cross-border and smartphone app scenarios

Table 150. Q45: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	2	18%	0	0	2
Quite easy	6	55%	1	1	4
Quite difficult	3	27%	2	0	1
Very difficult	0	0%	0	0	0

N=11

* This mystery shopper stated that each piece of information was provided in a format that was easy to view and read.

Table 151. Q47: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	7	64%	1	0	6
During the search for a stock	4	36%	0	1	3
After finding and selecting stocks	1	9%	0	0	1
With the agreement/contract	3	27%	2	0	1

N=11

Phone scenario

All mystery shoppers received this information verbally during a phone call, two during the first call with the provider and one during a follow-up call.

E. Overall customer experience

Table 152. Q49: How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	0	0%	0	0	0	0
2 - Fair	3	13%	0	0	2	1
3 - Good	17	71%	3	3	9	2
4 - Very good	3	13%	0	0	2	1
5 - Excellent	1	4%	0	0	1	0

N=24

Table 153. Q50: How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
1 - Poor	0	0%	0	0	0	0
2 - Fair	3	13%	0	0	2	1
3 - Good	17	71%	3	3	9	2
4 - Very good	4	17%	0	0	3	1
5 - Excellent	0	0%	0	0	0	0

N=24

Table 154. Q51: How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	0	0%	0	0	0	0
2 - Fair	4	17%	0	1	3	0
3 - Good	15	63%	2	2	8	3
4 - Very good	5	21%	1	0	3	1
5 - Excellent	0	0%	0	0	0	0

N=24

Table 155. Q52: When did you receive the final contract from the provider? Please indicate the number of days between first visiting the provider's website and receiving the final contract (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Within five working days	9	38%	2	1	4	2
I did not receive it within the time of research	15	63%	1	2	10	2

N=24

Table 156. Q53: How did you receive the final contract from the provider? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Via online account set up with the provider	8	89%	1	1	4	2
By email	1	11%	1	0	0	0
By post	0	0%	0	0	0	0

N=9

Table 157. Q54: How much time were you given to read and sign the contract? Please indicate the number of days between receiving the final contract and the deadline set for submitting the signed contract to the provider (select one option)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Up to 5 working days	7	78%	2	1	3	1
Between 5 and 10 working days	2	22%	0	0	1	1
More than 10 working days	0	0%	0	0	0	0

N=9

Other points:

- None of the mystery shoppers reported having felt pressured (e.g. to select a particular policy, sign an agreement, etc.).
- Half of the mystery shoppers from the online scenario (seven) reported having had a less positive experience for various reasons, including a confusing website, little information available, too much unclear information, or because

personal information is requested very early in the process. The remainder indicated that the website was user-friendly and the information easy to find and understand.

- In the cross-border scenario, all three mystery shoppers considered their experience positive.
- In the smartphone app scenario, all mystery shopper had less positive experiences due to difficulties inserting the data in the form or lack of information.
- In the phone scenario, three mystery shoppers reported a very positive experience, while the fourth considered it inconvenient to only have access to the agreement during a meeting in a branch.
- Mystery shoppers recommended the following:
  - Clearer indications of the process of purchasing stocks;
  - More and clearer information.

Mystery shopping 5: Travel insurance

In this section we present the results of the mystery shopping exercise where mystery shoppers simulated the acquisition of a travel insurance. As mentioned before, when presenting the results, we often indicate percentages. Sometimes the presented percentages do not add to 100% because of the need to round up/down numbers.

5.1 Overview

In this section we provide an overview of the respondents' profile, a summary of the segmentation per scenario (i.e., online, cross-border, smartphone app and phone) and a list of the questions asked to the mystery shoppers that simulated the acquisition of stocks.

5.1.1 Respondent profile

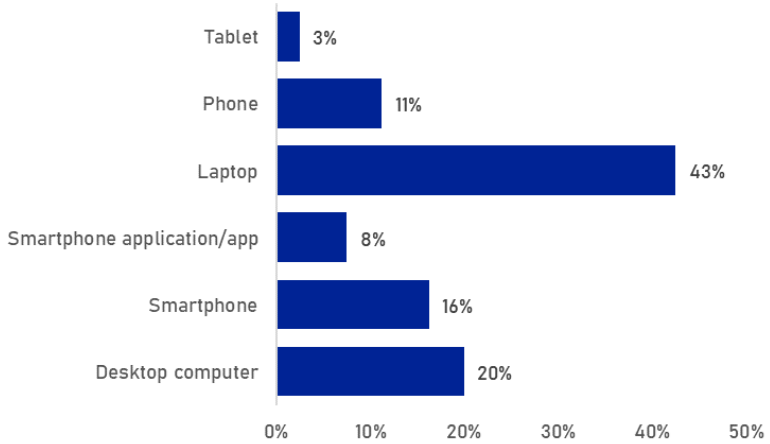
Table 158. Mystery shops by type of scenario and type of financial provider

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	18	100%	0%	0%
Smartphone app	11	9%	0%	91%
Online	41	51%	24%	24%
Phone	10	100%	0%	0%
Total (%)		**63%**	**13%**	**25%**
Total	**80**	**50**	**10**	**20**

Table 159. Mystery shops by Member State

Member State	Count
Belgium	8
Czechia	8
Finland	7
France	9
Germany	9
Ireland	7
Italy	8
Netherlands	8
Poland	8
Sweden	8
Total	**80**

Figure 66. Device used in the mystery shops



5.1.2 Scenarios

The segmentation per scenario was as follows:

- **Online**: 41 mystery shops were carried out in the 10 countries. Of those, 50% were traditional financial providers, 24% were consolidators/brokers and the remaining 24% were FinTechs. Mystery shoppers primarily used a laptop (56%), desktop computer and smartphone (20% each), while 4% used a tablet. One mystery shopper was not able to continue their journey as the financial provider only offered travel insurance as part of home insurance.
- **Cross-border**: 18 mystery shops were carried out on traditional financial providers in the 10 countries. Of those, 10 used a laptop and eight used a desktop computer.
- **Smartphone app**: 11 mystery shops were carried out in the 10 countries, 9% on traditional providers and 91% on FinTechs. Of those, one mystery shopper was not able to use the app and therefore could not carry on with the mystery shop.
- **Phone**: 10 mystery shops were carried out on traditional financial providers in the 10 countries. In one case there was no online form to request a phone contact.

5.1.3 Questions

The following table provides an overview of the questions asked to the mystery shoppers and for which the results are presented in the next sections.

Table 160. Questions in the mystery shopping on Travel Insurance

Stage / Question	Scenario
A. Stage: access and awareness	
Q224. Did you have to register/create an online account with the provider before you were allowed to search/shop for travel insurance?	Online
Q225. Were any prerequisites/eligibility requirements specified for starting a travel insurance application?	Online
Q226. What was the minimum age required for applying?	Online
Q227. Were you required to hold a specific nationality to apply?	Online
Q228. What proof of ID was required?	Online
Q229. Were you required to be an existing customer to buy travel insurance from the provider?	Online

Q230. How was the pre-application information gathered and processed?	Online
Q231. Was your application rejected? If yes, what reasons were given by the provider for their decision?	Online
Q232. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?	Cross-border
Q233. Were any prerequisites/eligibility requirements specified for starting a cross-border travel insurance application?	Cross-border
Q234. Were you required to be a resident in the provider's home country to apply for travel insurance? Did you encounter any problems in inserting, when requested, your address or residence details?	Cross-border
Q235. Were you required to hold a specific nationality to apply? Did you encounter any problems in inserting, when requested, your nationality?	Cross-border
Q236. Were you required to be an existing customer to buy travel insurance from the provider?	Cross-border
Q237. What proof of ID was required?	Cross-border
Q238. How was the pre-application information gathered and processed?	Cross-border
Q239. Was your application rejected? If yes, what reasons were given by the provider for their decision?	Cross-border
Q240. Did you have to register/create an online account with the provider before you were allowed to search/shop for travel insurance via their smartphone application?	Smartphone app
Q241. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?	Smartphone app
Q242. Were you required to be an existing customer to buy travel insurance from the provider? Were any prerequisites/eligibility requirements specified for starting a travel insurance application?	Smartphone app
Q243. What was the minimum age (in years) required to apply? Were you required to hold a specific nationality to apply? What proof of ID was required?	Smartphone app
Q244. How was the pre-application information gathered and processed? Was your application rejected? If yes, why?	Smartphone app
Q245. What information was requested in the online form you filled in and submitted (to request a phone contact by a sales representative)?	Phone
Q246. How long after completing and sending the online request form did the call take place?	Phone
Q247. Did the salesperson verify your eligibility to apply for travel insurance? Did you meet the eligibility requirements? If not, why?	Phone
Q248. What was the minimum age (in years) required to apply? What proof of ID was required?	Phone
B. Stage: consideration and purchase	
B1. Easy-to-use website and offers received	
Q249. Was it easy to search for travel insurance on the provider's website/app?	Online, cross-border and smartphone app
Q250. How many different travel insurance packages/policies were offered to you?	All

B2. Information on insurance package/policy	
Q251. What information (about each travel insurance package/policy) was provided to help you to compare and select the policy that best suited your needs?	All
Q252. Was this information easy to find?	Online, cross-border and smartphone app
Q253. Was this information easy to understand?	Online, cross-border and smartphone app
Q254. Did you find the information easy to view and read?	Smartphone app
Q255. How was this information communicated to you?	Online, cross-border and smartphone app
Q256. Once selected, were you able to tailor your policy (e.g. change the duration of the cover)?	Online, cross-border and smartphone app
Q257. Was the information provided spontaneously by the salesperson?	Phone
Q258. Was the information provided on each product to be comprehensive and clear?	Phone
Q259. How did you receive the information?	Phone
Q260. Was the information easy to understand?	Phone
Q261. Was it easy to compare products on the basis of the information received?	Phone
Q262. How did you advise the salesperson/provider of your preferred option?	Phone
Q263. Were you able to tailor the policy afterwards?	Phone
C. Other information disclosure during the purchase process	
C1. Information required from the mystery shopper	
Q264. As part of the purchase process, what information was required from you?	All
Q265. At what stage(s) of the purchase process was this information required from you?	All
C2. Information received about the provider	
Q266. As part of the purchase process, what information about the supplier was provided to you?	
Q267. Was this information easy to find?	Online, cross-border and smartphone app
Q268. Was this information easy to understand?	Online, cross-border and smartphone app
Q269. Did you find the information easy to view and read?	Smartphone app
Q270. At what stage(s) of the purchase process was this information provided to you?	Online, cross-border and smartphone app
Q271. How was this information communicated to you?	Online, cross-border and smartphone app
Q272. Was the information easy to understand?	Phone
Q273. Was the information provided spontaneously?	Phone
Q274. Did the salesperson seek your consent before sharing information about the desired product, the supplier, the distance contract, and forms of redress?	Phone

Q275. Did the salesperson inform you that additional information was available on request?	Phone
C3. Information about the travel policy	
Q276. As part of the purchase process, what information relating to your preferred travel insurance policy was provided to you?	All
Q277. Was this information easy to understand?	All
Q278. Was the information provided in a format easy to view and read?	Smartphone app
Q279. At what stage(s) of the purchase process was this information provided to you?	All
Q280. How was this information communicated to you?	Al
Q281. Was this information easy to find?	Online, cross-border and smartphone app
C4. Information relating to the terms/conditions of a prospective contract	
Q282. As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you?	All
Q283. Was this information easy to understand?	All
Q284. Was the information provided in a format easy to view and read?	Smartphone app
Q285. At what stage(s) of the purchase process was this information provided to you?	All
Q286. How was this information communicated to you?	All
Q287. Were you informed that the contract terms/conditions could change? If yes, which ones?	All
Q288. Was this information easy to find?	Online, cross-border and smartphone app
Q289. Were you informed that the contract terms/conditions could change due to factors within and/or beyond the control of the provider?	Phone
D. Your overall customer experience	
Q290. How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q291. How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q292. How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)?	All
Q293. When did you receive the final contract from the provider?	All
Q294. How did you receive the final contract from the provider?	All
Q295. How much time were you given to read and sign the contract?	All
Q296. How would you describe your overall customer experience in a few sentences?	All
Q297. Do you have any suggestions for improving the service or customer experience?	All

5.2 Results

This section presents the results of the mystery shopping exercise per scenario.

A. Stage: access and awareness

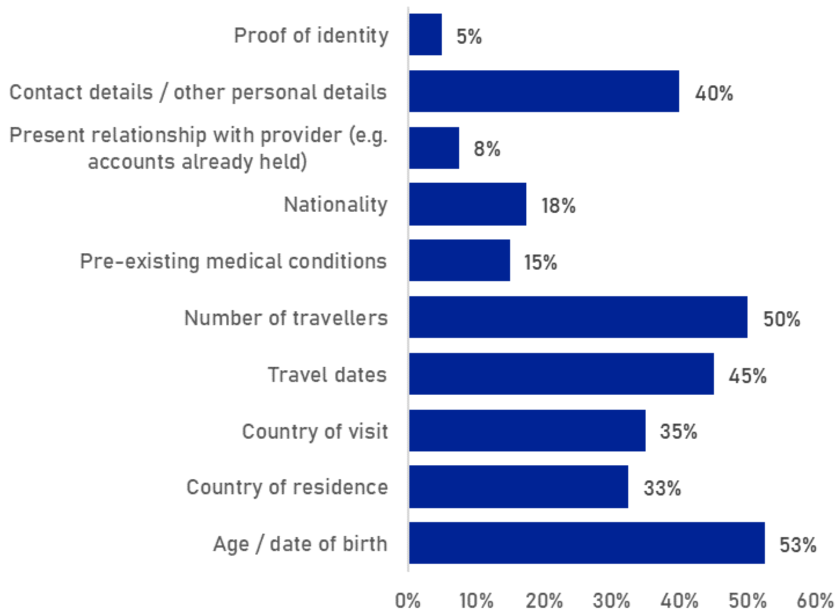
Online

Q1. Did you have to register/create an online account with the provider before you were allowed to search/shop for travel insurance?

In two cases (out of 40), the mystery shopper had to register/create an account before they were allowed to search/shop for travel insurance.

Q2. Were any prerequisites/eligibility requirements specified for starting a travel insurance application?

Figure 67. Prerequisites for starting a travel insurance application



Q3. What was the minimum age required for applying?

In 58% of cases, the minimum age was 18 years. The remaining 42% gave no indication of minimum age.

Q4. Were you required to hold a specific nationality to apply?

17% of the mystery shops required a specific nationality.

Q5. What proof of ID was required?

This requirement was assessed in only 33 of the 40, as seven mystery shops could not continue further (see next questions). 64% required no proof of ID, while, of the remainder, six asked for a social security number, four for a national ID number, and two for a passport number.

Q6. Were you required to be an existing customer to buy travel insurance from the provider?

Six mystery shops required the shopper to be an existing customer to buy travel insurance. In these cases, the mystery shop finished here.

Q7. How was the pre-application information gathered and processed?

30% of the mystery shops could not continue their application online, but:

- 'a contact number was provided to apply by phone' (25%);
- 'a branch address was provided to apply in person' (5%).

For these 12 cases, the mystery shop ended here.

Of the remaining 28:

- 79% of mystery shoppers provided their details online, which were processed automatically, receiving an instant response on whether or not they could apply;
- 21% of mystery shoppers provided their details via an online form and received a response by email at a later date.

Q8. Was your application rejected? If yes, what reasons were given by the provider for their decision?

Of the 28 mystery shoppers that were able to apply for travel insurance, 11 (39%) had their application rejected. In four cases, the reason was 'One or more of the eligibility requirements were not met', in one case 'Incorrect information was provided' and in six cases, there were other reasons, such as payment or personal information was required in order to proceed.

Cross-border

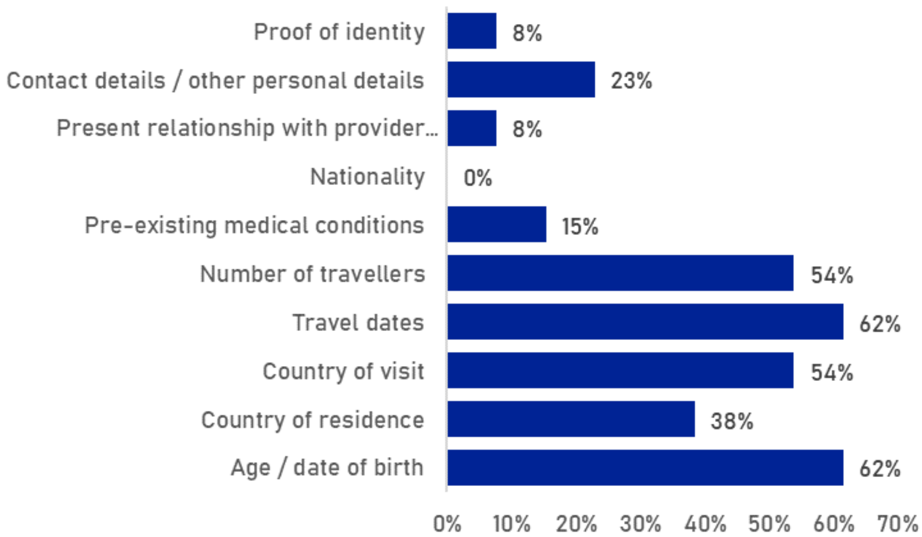
Q9. Was access to the provider's (non-domestic) website blocked or were you redirected to a domestic or global website?

In one case, the non-domestic website of the provider was blocked, while in five cases the mystery shoppers were redirected to the domestic or global website of the provider.

Q10. Were any prerequisites/eligibility requirements specified for starting a cross-border travel insurance application?

For the 13 that could proceed with the mystery shopping (i.e. that were not blocked or redirected), certain prerequisites/eligibility requirements were specified for starting a cross-border travel insurance application (see Figure 11 below).

Figure 68. Prerequisites/eligibility requirements specified for starting a cross-border travel insurance application



In addition, three mystery shoppers reported that the financial provider required:

- Fiscal residence in the country of the provider (one case);
- Personal or family insurance (one case);
- A bank account in Germany or Austria (the location of the financial provider was Germany).

Q11. Were you required to be a resident in the provider's home country to apply for travel insurance? Did you encounter any problems in inserting, when requested, your address or residence details?

In six mystery shops (of 13), the mystery shopper was required to be a resident in the provider's home country to apply for travel insurance. The problems experienced were:

- *'The registration process was terminated as soon as I entered my national ID'.*
- *'I was told that I could only take out an insurance if I lived in Germany'.*
- *'I was asked to insert a Finnish national identification number, which I did not have'.*
- *'Only Irish residents could apply'.*
- *'I was not able to choose my home country (Poland)'.*

Q12. Were you required to hold a specific nationality to apply? Did you encounter any problems in inserting, when requested, your nationality?

In two mystery shops (out of 13), the mystery shopper was required to hold a specific nationality to apply for travel insurance.

Q13. Were you required to be an existing customer to buy travel insurance from the provider?

Only one mystery shopper was required to be an existing customer to apply.

Q14. What proof of ID was required?

Of the nine mystery shoppers that were allowed to continue with their application, three were asked to provide their passport number, while the other six were not asked to provide a proof of ID at this stage.

Q15. How was the pre-application information gathered and processed?

38% of the mystery shops could not continue their application online, but:

- 'a contact number was provided to apply by phone' (31%);
- 'a branch address was provided to apply in person' (7%).

For these five cases the mystery shop ended here.

Of the remaining eight:

- 63% of mystery shoppers provided their details online, which were processed automatically, receiving an instant response on whether or not they could apply;
- 37% of mystery shoppers provided their details via an online form and received a response by email at a later date.

Q16. Was your application rejected? If yes, what reasons were given by the provider for their decision?

Of the eight mystery shoppers that were able to apply for travel insurance, none had their application rejected.

Smartphone app

Q17. Did you have to register/create an online account with the provider before you were allowed to search/shop for travel insurance via their smartphone application?

For four of the 10 mystery shops, it was compulsory to register.

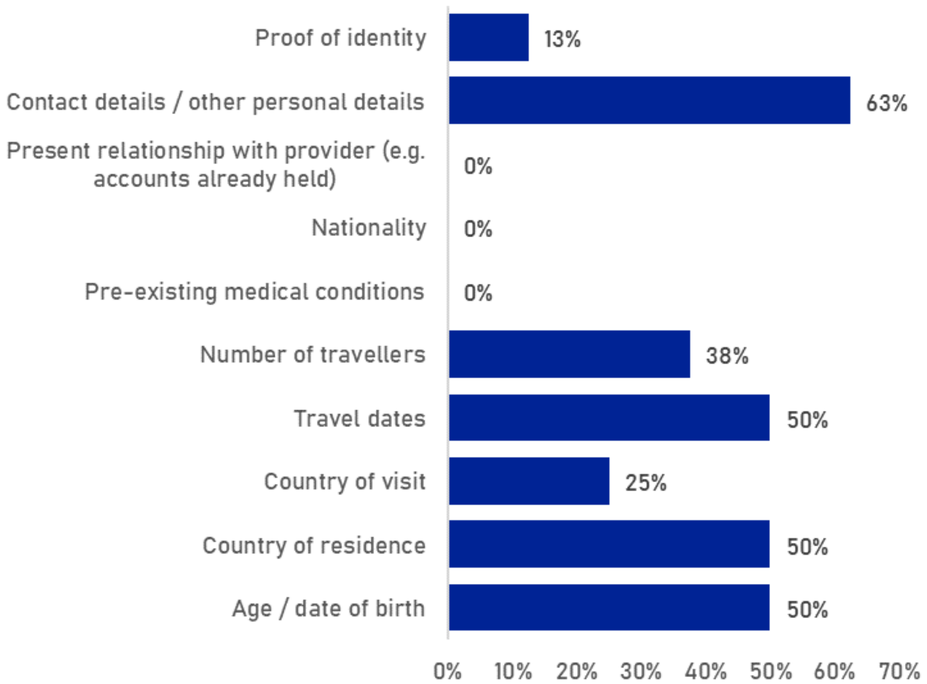
Q18. Was it easy to find and download the provider's smartphone app? Was the provider's smartphone app free of charge?

Half of the mystery shoppers considered it 'very easy' to find and download the provider's smartphone app. 10% considered it 'quite easy', 30% 'quite difficult' and 10% 'very difficult'. In all cases the app was free of charge.

Q19. Were you required to be an existing customer to buy travel insurance from the provider? Were any prerequisites/eligibility requirements specified for starting a travel insurance application?

Of the 10 mystery shoppers, one had problems starting the application and one was not able to place an enquiry because they were not an existing client.

Figure 69. Prerequisites for starting a travel insurance application



In addition to these requirements, two mystery shoppers reported having to provide their policy number in one case and their personal ID number in the other case.

Q20. What was the minimum age (in years) required to apply? Were you required to hold a specific nationality to apply? What proof of ID was required?

In 50% of cases, the minimum age was 18. In the remaining 50% of cases there was no indication of minimum age. Two mystery shoppers were required to have a specific nationality to apply.

In one case the mystery shopper was requested to provide a social security number, while in two cases a national ID number was required.

Q21. How was the pre-application information gathered and processed? Was your application rejected? If yes, why?

44% of the mystery shops could not continue their application online, but:

- 'a contact number was provided to apply by phone' (33%);
- 'a branch address was provided to apply in person' (11%).

For these four cases, the mystery shop ended here.

Of the remaining five:

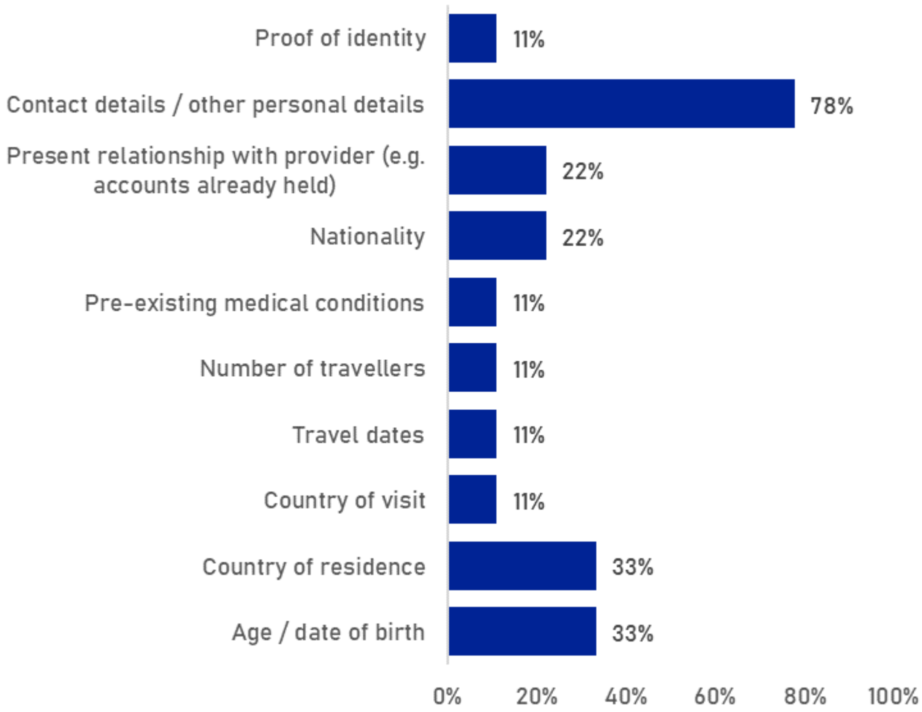
- Two mystery shoppers provided their details online, which were processed automatically, receiving an instant response on whether or not they could apply;
- Two mystery shoppers provided their details via an online form and received a response by <u>email</u> at a later date;
- One mystery shopper provided their details via an online form and received a response by <u>post</u> at a later date.

In one case, a follow-up call with a sales representative was scheduled, as the process could not be completed using the app.

Of the five mystery shoppers that were able to apply for travel insurance, none had their application rejected at this stage.

Phone

Q22. What information was requested in the online form you filled in and submitted (to request a phone contact by a sales representative)?



In some cases, the following information was also requested:

- Phone number (two cases);
- Email address (two cases).

Q23. How long after completing and sending the online request form did the call take place?

Four out of nine mystery shoppers did not receive a follow-up call within the timeframe set for the research. The remaining five received a phone call up to five working days after submitting the request online.

Q24. Did the salesperson verify your eligibility to apply for travel insurance? Did you meet the eligibility requirements? If not, why?

In three mystery shops (out of five), the salesperson verified the eligibility of the mystery shopper to apply for travel insurance.

One mystery shopper did not meet the eligibility criteria and could not proceed further with the process. The reason given by the salesperson was that a national insurance number was required.

Q25. What was the minimum age (in years) required to apply? What proof of ID was required?

In four out of five mystery shops, the minimum age was 18. In one case it was 14.

In two cases the mystery shoppers were required to provide a proof of ID (passport number and social security number, respectively).

B. Stage: consideration and purchase

	Total	Traditional	Consolidator/broker	FinTech
Cross-border	**8**	100%	0%	0%
Smartphone app	**5**	20%	0%	80%
Online	**28**	57%	25%	18%
Phone	**4**	100%	0%	0%
Total (%)	**45**	**64%**	**16%**	**20%**
Total		**29**	**7**	**9**

For the various reasons outlined above:

- Of the 41 mystery shops in the online scenario, only 28 (61%) got to this stage;
- Of the 18 mystery shops in the cross-border scenario, only 8 (44%) got to this stage;
- Of the 11 mystery shops in the smartphone app scenario, only 5 (45%) got to this stage;
- Of the 10 mystery shops in the phone scenario, only 4 (40%) got to this stage.

6.1.18B1. Easy-to-use website and offers received

Table 161. Q26: Was it easy to search for travel insurance on the provider's website/app?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Very easy	30	73%	3	4	23	N/A
Quite easy	8	20%	3	0	5	N/A
Quite difficult	2	5%	2	0	0	N/A
Very difficult	1	2%	0	1	0	N/A

**N/A: the question was not asked in that scenario*

Table 162. Q27: How many different travel insurance packages/policies were offered to you?

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
<5 different types of travel insurance packages	40	89%	7	5	24	4
5-10 different types of travel insurance packages	2	4%	1	0	1	0
>10 different types of travel insurance packages	3	7%	0	0	3	0

N=45

6.1.19B2. Information on insurance package/policy

Table 163. Q28: What information (about each travel insurance package/policy) was provided to help you to compare and select the policy that best suited your needs? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Product name	39	87%	7	3	26	3
Type of coverage (e.g. single trip, annual multi-trip)	31	69%	5	2	21	3
Duration of coverage (in days /weeks /months)	26	58%	3	2	18	3
Price/premium (including taxes, if applicable)	36	80%	7	3	22	4
Service fee (if applicable)	5	11%	1	0	3	1
Excess (i.e. the amount of a claim to be covered by you)	15	33%	3	0	11	1
Currency used	24	53%	2	2	18	2

Confirmation and amount of payment in the event of lost /stolen /damaged baggage	22	49%	2	2	15	3
Confirmation and amount of payment in the event of flight (or other) delay/cancellation	16	36%	1	1	13	1
Confirmation and amount of payment in the event of a missed flight/connecting flight	15	33%	1	1	11	2
Confirmation and amount of payment in the event of emergency medical expenses overseas	20	44%	2	2	14	2
Confirmation and amount of payment in the event of medical transport/repatriation home	16	36%	2	1	11	2
Confirmation and amount of payment in the event of prescribed physiotherapy	4	9%	1	0	2	1
Confirmation and amount of payment in the event of counselling services	7	16%	1	0	5	1
Confirmation and amount of payment in the event of out-of-pocket expenses in hospital	7	16%	1	0	5	1
Confirmation and amount of payment in the event of emergency dental treatment	9	20%	1	0	6	2
Confirmation and amount of payment in the event of local funeral expenses	5	11%	1	0	3	1
Confirmation and amount of payment in the event of curtailment/trip interruption	11	24%	2	0	8	1
Confirmation and amount of payment in the event you are liable to pay someone for accidentally injuring them or for damaging/losing their property	14	31%	2	0	10	2
Confirmation and amount of payment in the event you are involved in an accident and are injured	12	27%	2	0	9	1
Confirmation and amount of payment in the event you incur legal expenses as a	12	27%	1	0	10	1

result of claiming compensation/damages						
Confirmation and amount of payment in the event you incur unexpected costs from your car hire arrangement abroad	5	11%	1	0	3	1
Confirmation and amount of payment in the event of accidental car damage	7	16%	1	0	5	1
Confirmation and amount of payment in the event of mis-fuelling	2	4%	0	0	1	1
Confirmation and amount of payment in the event of having to replace rental car keys	2	4%	0	0	1	1
Confirmation and amount of payment in the event of natural catastrophes	6	13%	1	0	4	1

N=45

Online, cross-border and smartphone app scenarios

Table 164. Q29: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	18	44%	2	3	13
Quite easy	19	46%	4	1	14
Quite difficult	0	0%	0	0	0
Very difficult	4	10%	2	1	1

N=41

Table 165. Q30: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	18	44%	1	2	15
Quite easy	17	41%	5	1	11
Quite difficult	3	7%	1	1	1
Very difficult	3	7%	1	1	1

N=41

* In the smartphone app scenario, three mystery shoppers found it ‘very easy’ to view and read the information, one found it ‘quite easy’ and one found it ‘very difficult’.

Table 166. Q32: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	36	88%	6	4	26
Information was emailed separately	10	24%	3	2	5
Information was sent by post	2	5%	0	1	1
Information was shared during a scheduled call with a representative	1	2%	0	1	0

N=41

Table 167. Q33: Once selected, were you able to tailor your policy (e.g. change the duration of the cover)? (select one option)

	Total	Total	Cross-border	Smartphone app	Online
Yes	26	63%	3	2	21
No	15	37%	5	3	7

N=41

On additional information that could have helped them to make a more informed decision about the travel insurance policy, mystery shoppers recommended the following:

- Information provided in English;
- Real-life examples;
- Price immediately visible;
- Duration and limits of the coverage;
- Amount to be covered by the customer.

Phone scenario

Some questions related to the information provided on travel insurance were asked only in the phone scenario. These are the results:

- In three mystery shops, the information was provided spontaneously by the salesperson, while in one mystery shop it had to be requested;
- All mystery shoppers considered the information provided on each product to be comprehensive and clear;
- All received the information during the call. In addition, in one case, a link to the provider's website, setting out the relevant product information, was provided by the salesperson, and in another case, it was sent by email;
- Three mystery shoppers found the information 'very easy' to understand, while one found it 'quite difficult';

- Two mystery shoppers found it ‘very easy’ to compare products on the basis of the information received and the other two found it ‘quite easy’;
- One mystery shopper advised the salesperson/provider of their preferred option for a travel insurance policy at a later stage by email and another at a later date, via an online account set up with the provider;
- Half of the mystery shoppers were able to tailor their policy afterwards, while the other half was not.

C. Other information disclosure during the purchase process

C1. Information required from the mystery shopper

Table 168. Q41: As part of the purchase process, what information was required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Name	41	91%	5	4	28	4
Email address	35	78%	3	5	24	3
Phone number	35	78%	4	4	23	4
Country of residence	28	62%	4	3	19	2
Nationality	13	29%	2	1	9	1
ID	8	18%	1	2	4	1
Date of birth/age	34	76%	4	4	23	3
Marital status	4	9%	1	0	3	0
Employment status	1	2%	0	0	0	1
Income	1	2%	0	0	1	0
Destination	21	47%	2	2	14	3
Duration of trip	19	42%	2	1	13	3
Type of trip (e.g. single trip, annual multi-trip)	23	51%	2	3	14	4
Travel dates	27	60%	4	4	17	2
Number of travellers	26	58%	3	3	16	4
Pre-existing medical conditions	6	13%	0	0	5	1

N=45

Table 169. Q42: At what stage(s) of the purchase process was this information required from you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Pre-application, when assessing eligibility to apply	20	44%	5	2	11	2
During the search for travel insurance cover/policy	12	27%	1	0	9	2
After finding and selecting travel insurance cover/policy	23	51%	2	3	17	1
With the agreement/contract	8	18%	1	1	6	0

N=45

6.1.20C2. Information received about the provider

Table 170. Q43: As part of the purchase process, what information about the supplier was provided to you? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Identity of the supplier	38	84%	6	4	25	3
Main business of the supplier	28	62%	6	3	17	2
Geographical address at which the supplier is established (and any other relevant geographical address)	25	56%	4	2	17	2
Identity of the sales representative, if applicable	6	13%	0	0	4	2
Geographical address at which the sales representative is based, if applicable	6	13%	0	0	5	1
Identity of the independent professional/financial adviser acting on behalf of the provider, if applicable	2	4%	0	0	1	1
Capacity in which the professional is acting (i.e. the role played by the professional during the	1	2%	0	0	0	1

purchase process), if applicable						
Geographical address at which the professional is based, if applicable	8	18%	0	0	7	1
Public or trade register on which the supplier features	14	31%	2	0	11	1
Supplier's registration number or an equivalent means of identification in the public or trade register	17	38%	3	0	13	1
Particulars of the supervisory authority regulating the supplier's activities	10	22%	2	0	7	1

N=45

Online, cross-border and smartphone app scenarios

Table 171. Q44: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	10	24%	1	2	7
Quite easy	22	54%	3	1	18
Quite difficult	4	10%	2	0	2
Very difficult	5	12%	2	2	1

N=41

Table 172. Q45: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online
Very easy	14	34%	1	2	11
Quite easy	18	44%	3	0	15
Quite difficult	4	10%	3	1	0
Very difficult	5	12%	1	2	2

N=41

* Three mystery shoppers in the smartphone app scenario found the information ‘very easy’ to view and read, while two found it ‘very difficult’.

Table 173. Q47: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Pre-application, when assessing eligibility to apply	19	46%	5	2	12
During the search for travel insurance cover/policy	15	37%	3	0	12
After finding and selecting travel insurance cover/policy	12	29%	3	0	9
With the agreement/contract	11	27%	1	3	7

N=41

Table 174. Q48: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	33	80%	7	2	24
Information was emailed separately	13	32%	2	2	9
Information was sent by post	1	2%	0	0	1
Information was shared during a scheduled call with a representative	1	2%	0	1	0

N=41

Phone scenario

On information about the provider:

- Three of the mystery shoppers found the information they received about the supplier 'very easy' to understand and one found it 'quite difficult';
- In three mystery shops, the information was provided spontaneously, while in one case, much of the information had to be requested from the salesperson;
- In half of the mystery shops, the salesperson sought the consent of the mystery shopper before sharing information about the desired product, the supplier, the distance contract, and forms of redress. In the remaining two, they did not.

- In half of the mystery shops, the salesperson informed the mystery shoppers that additional information was available on request, while in the remaining two, they did not.

6.1.21C3. Information about the travel policy

Table 175. Q53: As part of the purchase process, what information relating to your preferred travel insurance policy was provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Description of the main characteristics of the travel insurance, including coverage	38	84%	5	3	26	4
Total price to be paid, including all related fees, charges, expenses and taxes	33	73%	3	3	24	3
Any additional cost(s) relating to the use of a distance means of purchase payable to the provider	6	13%	0	0	6	0
Any other fees, charges, and expenses not payable to the provider but that could apply	4	9%	0	1	3	0
Any restrictions to the period or amount of time for which the information provided was valid	14	31%	0	1	11	2
Payment arrangements	17	38%	1	2	13	1

N=45

Table 176. Q54: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online	Phone
Very easy	20	44%	1	3	14	2
Quite easy	17	38%	4	1	11	1
Quite difficult	3	7%	1	0	1	1
Very difficult	5	11%	2	1	2	0

N=45

* In the smartphone app scenario, four mystery shoppers considered the information was provided in a format that was ‘very easy’ to view and read, while one considered it ‘very difficult’.

Table 177. Q56: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Pre-application, when assessing eligibility to apply	19	42%	4	2	11	2
During the search for travel insurance cover/policy	16	36%	2	0	11	3
After finding and selecting travel insurance cover/policy	18	40%	3	2	12	1
With the agreement/contract	11	24%	1	3	7	0

N=45

Table 178. Q57: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	38	84%	7	3	26	2
Information was emailed separately	13	29%	2	2	8	1
Information was sent by post	1	2%	0	0	1	0
Information was shared during a scheduled call with a representative	4	9%	0	1	0	3

N=45

Online, cross-border and smartphone app scenario

Table 179. Q58: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	17	41%	2	3	12
Quite easy	16	39%	3	0	13

Quite difficult	3	7%	0	1	2
Very difficult	5	12%	3	1	1

N=41

6.1.22C4. Information relating to the terms/conditions of a prospective contract

In two mystery shops (smartphone app scenario), information relating to the terms and conditions was not provided/available.

Table 180. Q59: As part of the purchase process, what information relating to the terms/conditions of a prospective contract with the provider was communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Existence of a right of withdrawal	30	70%	4	2	20	4
Permitted timeframe for withdrawal	24	56%	3	2	16	3
Conditions for exercising the right of withdrawal	23	53%	3	2	15	3
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	20	47%	3	1	14	2
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	14	33%	2	1	9	2
Language(s) in which the contractual terms and conditions, and any prior information will be made available	11	26%	1	0	9	1
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	9	21%	2	0	6	1
Methods of access to the relevant out-of-court complaints and redress mechanism(s)	13	30%	2	0	9	2

N=43

Table 181. Q60: Was this information easy to understand? (select one option)

	Total	Total (%)	Cross-border	Smartphone app*	Online	Phone
Very easy	10	23%	1	1	6	2
Quite easy	20	47%	3	0	16	1
Quite difficult	9	21%	1	1	6	1
Very difficult	4	9%	2	2	0	0

N=43

* In the smartphone app scenario, one mystery shopper found that the information provided was in a format that was 'very easy' to view and read, while one found it 'quite difficult' and two found it 'very difficult'.

Table 182. Q62: At what stage(s) of the purchase process was this information provided to you? (select all that apply)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Pre-application, when assessing eligibility to apply	15	35%	3	1	10	1
During the search for travel insurance cover/policy	15	32%	3	1	8	3
After finding and selecting travel insurance cover/policy	19	43%	3	0	14	2
With the agreement/contract	15	34%	1	3	11	0

N=43

Table 183. Q63: How was this information communicated to you? (select all that apply)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Information was provided online (e.g. in separate pop-up windows, in specific sections of the website, on specific pages of the website, etc.)	34	77%	7	1	25	1
Information was emailed separately	11	26%	2	2	6	1

Information was sent by post	1	2%	0	0	1	0
Information was shared during a scheduled call with a representative	4	9%	0	1	0	3

N=43

Table 184. Q64: Were you informed that the contract terms/conditions could change? If yes, which ones?

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
No	**32**	**75%**	**6***	**3**	**20**	**3**
Yes…	**11**	**25%**	**1***	**1**	**8**	**1**
Existence of a right of withdrawal	7	64%	1	1	5	1
Permitted timeframe for withdrawal	7	64%	0	1	4	1
The conditions for exercising the right of withdrawal	6	55%	0	1	4	1
Existence of rights conferred on all parties to the contract to terminate the contract early or unilaterally	6	55%	0	0	5	0
Any contractual clause stipulating the law(s) applicable to the distance contract and/or the competent court for judicial matters	5	45%	0	0	2	0
Language(s) in which the contractual terms and conditions, and any prior information will be made available	2	18%	0	1	2	0
Language(s), as agreed with the customer, in which the supplier undertakes to communicate with the customer during the duration of the distance contract	3	27%	0	1	2	0

Methods of access to the relevant out-of-court complaints and redress mechanism(s)	3	27%	0	0	1	1

N=43, * The mystery shoppers were not informed that this could change based on the country of residence.

Online, cross-border and smartphone app scenarios

Table 185. Q65: Was this information easy to find? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online
Very easy	6	15%	1	1	4
Quite easy	20	50%	3	0	17
Quite difficult	7	20%	1	1	5
Very difficult	6	15%	2	2	2

N=40

Phone scenario

- Half of the mystery shoppers were informed that the contract terms/conditions could change due to factors within and/or beyond the control of the provider, namely:
  - Fees or costs associated with provision of the service (one);
  - Existence of a right of withdrawal (two);
  - Permitted timeframe for withdrawal (two);
  - Conditions for exercising the right of withdrawal (two).
- Mystery shoppers received this information verbally during the phone call.

D. Your overall customer experience

Table 186. Q67: How would you assess the amount of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	4	9%	2	2	0	0
2 - Fair	3	7%	2	0	1	0
3 - Good	16	36%	3	2	10	1
4 - Very good	11	24%	0	0	10	1
5 - Excellent	11	24%	1	1	7	2

N=45

Table 187. Q68: How would you assess the quality of information provided to you at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total	Cross-border	Smartphone app	Online	Phone
1 - Poor	3	7%	1	2	0	0
2 - Fair	2	4%	2	0	0	0
3 - Good	15	33%	4	2	8	1
4 - Very good	13	29%	0	0	13	0
5 - Excellent	12	27%	1	1	7	3

N=45

Table 188. Q69: How would you assess the extent of assistance offered by the provider at each stage of the purchase process (i.e. from first visiting the provider's website to receiving the final contract)? (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
1 - Poor	5	11%	1	2	2	0
2 - Fair	3	7%	2	1	0	0
3 - Good	19	42%	4	1	13	1
4 - Very good	10	22%	0	1	8	1
5 - Excellent	8	18%	1	0	5	2

Table 189. Q70: When did you receive the final contract from the provider? Please indicate the number of days between first visiting the provider's website and receiving the final contract (select one option)

	Total	Total (%)	Cross-border	Smartphone app	Online	Phone
Within five working days	30	67%	3	3	21	3
I did not receive it within the time of research	15	33%	5	2	7	1

Table 190. Q71: How did you receive the final contract from the provider? (select all that apply)

	Total	Total	Cross-border	Smartphone app	Online	Phone
Via online account set up with the provider	12	40%	1	1	9	1
By email	16	53%	2	1	12	1
By post	3	10%	0	1	1	1

N=30

Table 191. Q72: How much time were you given to read and sign the contract? Please indicate the number of days between receiving the final contract and the deadline set for submitting the signed contract to the provider (select one option)

	Total	Total (%)	Cross-border	Smart phone app	Online	Phone
Up to 5 working days	20	67%	2	2	14	2
Between 5 and 10 working days	3	10%	0	0	2	1
More than 10 working days	7	23%	1	1	5	0

N=30

Other points:

- Only one customer reported having felt pressured (e.g. to select a particular policy, sign an agreement, etc.).
- 31 mystery shoppers reported having a very good customer experience, while seven indicated that their experience was not very good. In the online scenario, 24 of 28 indicated that the website was user-friendly and the information easy to find and understand. Two reported that they had to pay in order to get the contract, while another did not receive any follow-up contact. In the cross-border scenario, only one mystery shopper considered their experience very positive, with three noting language barriers. In the smartphone app scenario, three mystery shoppers indicated that the app was easy to use and user-friendly, while one found the app very difficult to use and stated that information was very difficult to find. In the phone scenario, all mystery shoppers reported a very positive experience.
- Mystery shoppers recommended the following:
  - Websites and information would be useful in English (in the cross-border scenario);
  - Information should be provided before payment is requested;
  - More detailed information about the product and coverage should be provided on the main website, as well as information on fees and terms and conditions;
  - Side-by-side comparison of insurance should be provided.

Annex 6 - Stakeholder consultation synopsis report

Introduction

This annex presents an overview of all stakeholders' activities conducted as part of the 'Evaluation of Directive 2002/65/EC on Distance Marketing of Consumer Financial Services'. The consultation sought to collect information and feedback on the market of financial services sold at distance in the EU and on various aspects of the DMFSD (and other relevant legislation) from a wide range of key stakeholders. The stakeholder consultations sought to obtain feedback on:

- Relevance of the DMFSD, by considering the current needs of consumers and providers, together with developments in the financial market and legal framework since the introduction of the DMFSD.
- Effectiveness of the DMFSD, by analysing the extent to which its objectives were achieved and which part of those achievements can be attributed to the DMFSD (taking into account the status of the implementation and enforcement of the Directive, level of compliance with the DMFSD and implementation of other EU legislation).
- Coherence of the DMFSD with other EU and national horizontal and product-specific legislation.
- Efficiency of the Directive, by comparing its costs and benefits and analysing the opportunities for simplifications and burden reduction.
- EU added value of the DMFSD, by analysing whether EU action brings benefits beyond what could reasonably have been expected from national legislation in the Member States alone, together with the impact of withdrawing the DMFSD.

The consultation strategy relied on a mix of methods and tools to ensure a comprehensive and representative collection of views and experiences in respect of the functioning of the Directive. The tools and methods used were complementary and reached out to all relevant stakeholders:

- An open public consultation (OPC) in two parts: one for general public (e.g., consumers) and another for all other EU stakeholders, including EU and national authorities, EU and national consumer associations, EU and national business associations, financial providers and NGOs;
- Target stakeholder consultations, which took the form of surveys and interviews with a variety of stakeholders, namely EU and national authorities, EU and national consumer associations, EU and national business associations and financial providers;
- A consumer survey to collect their views of their experiences in searching for and purchasing financial services at distance.

Table 192 summarises the range of stakeholders consulted as part of the evaluation, in line with the consultation strategy. Table 193 provides an overview of the number of stakeholders consulted.

Table 192. Stakeholder group and data collection method

Stakeholder group	OPC	Targeted stakeholder consultation	Consumer survey
EU and national industry representative	■	■	
EU and national consumer representatives	■	■	
Financial providers and representatives	■	■	
Consumers	■		■

EU and national authorities	■	■
Other (NGOs, research organisations, etc.)	■	

Table 193. Overview of the target interviews and surveys carried out

Stakeholder group	Responses submitted to the OPC	Interviews and surveys
EU and national industry representative	26	21
EU and national consumer representatives	9	14
Financial providers and representatives	17	8
EU and national authorities	17	28
Consumers	39	1,043
Other	6	-

Overview of consultation activities

This section provides an overview of the three key consultation activities: the OPC, targeted interviews and surveys, and the consumer survey. In addition, several stakeholders provided their views on the evaluation roadmap and sent *ad hoc* contributions as position/opinion papers.

Open public consultation (OPC)

The OPC carried out by the Commission aimed to gather the opinions of all stakeholder groups on the relevance, effectiveness, efficiency, coherence and EU added value of the DMFSD since its implementation in 2004, in order to collect evidence on whether the DMFSD remains fit for purpose and to identify priority areas for improvement.

The OPC questionnaire consisted of 27 questions, split into two distinct parts. The first part (12 questions) targeted the general public (i.e. consumers) and the second part (15 questions) targeted key stakeholders involved in the implementation of the Directive or who have detailed knowledge of the functioning of the different elements of the DMSFD and their impact on the market of financial services sold through distance means of communication.

The consultation was advertised through the Directorate-General for Justice and Consumers' (DG JUST) social network accounts. An email was also sent to the relevant expert groups of DG JUST representing consumer organisations[562], financial services users[563] and Member States' national authorities, informing them of the OPC and inviting them to publicise the survey to their respective audiences. Stakeholders could respond in any of the EU languages.

The OPC ran between 9 April and 2 July 2019. It received 114 responses, the majority of which came from EU citizens (38), followed by business associations (26). Other respondents included public authorities (17), company/business organisations (17), consumer associations (9) NGOs (2), academic/research institutions (2) and other respondents (3). Nineteen position papers were also received.

[562] European Consumer Consultative Group.
[563] Financial Services User Group.

Targeted stakeholder consultation

Interviews and surveys were carried out with a range of relevant stakeholders at EU level and across Member States.

The number of stakeholders contacted was significantly higher than the final number interviewed and surveyed, which may reflect a degree of 'stakeholder fatigue' or lack of availability (many of the consultations took place during the summer period).

The deadline for interviews and surveys was gradually extended to 21 September 2019 (from mid-August) in order to allow more stakeholders to respond.

Consumer survey

The consumer survey ran from 6-30 August 2019. The online survey took approximately 15 minutes to complete and targeted consumers in eight Member States (Czechia, Finland, France, Germany, Italy Netherlands, Poland and Sweden). A total of 1,043 consumers[564] responded in their own language, providing first-hand information on their experiences of searching and buying financial services at distance.

The consumer survey questionnaire consisted of 21 questions split into three distinct parts. The first part (five questions) covered consumers' characteristics, the second (14 questions) dealt with consumers' experiences of searching for retail financial services, and the third (seven questions) probed consumers' experiences of purchasing financial services online.

Methodology

Targeted stakeholder consultation

EU and national industry representatives were selected in order to cover the whole range of financial services sold using distance means of communication, as well as views from both financial incumbents and non-traditional providers (e.g. FinTechs) in a proportionate way. EU and national consumer associations were selected to ensure that the consultation would cover as many Member States as possible. Financial providers were selected after an extensive search of providers in all Member States that offered financial services sold using distance means of communication. Again, the group of financial providers contacted included incumbents and non-traditional providers and covered the whole range of financial services sold using distance means of communication.

Responses were gathered via semi-structured interview (four semi-structured questionnaires were drafted for each group of stakeholders) or online survey (four targeted surveys were developed for each group of stakeholders).

Consumer survey

The consumer survey targeted the two countries with the highest incidence of online sales of financial services (in absolute terms) in each of four European regions (Eastern Europe, Northern Europe, Southern Europe and Western Europe). Survey response targets were based on the size of the population of each Member State. A minimum of five answers per type of financial product/service per country was set in order to ensure that the survey covered all types of products in all countries.

Results of stakeholder consultation by activity and input to the evaluation

Comments on roadmaps

Seven stakeholders provided feedback on the roadmap on the Evaluation of the DMFSD, including: three business associations (European Federation of Insurance Intermediaries

[564] 21% more than initially foreseen in order to compensate for the relatively low response rate of consumers to the OPC.

(BIPAR), European Banking Federation (EBF), and Insurance Europe); three public authorities (Danish Competition and Consumer Authority, Danish Financial Supervisory Authority and FPS Economy); and one NGO (Finance Watch). The business associations and the two Danish authorities highlighted the need for the evaluation to examine coherence between the DMFSD and newer sector-specific legislation, such as the Insurance Distribution Directive (IDD), the Regulation on the Packaged Retail and Insurance-based Investment Products, the General Data Protection Regulation (GDPR), the Consumer Credit Directive (CCD) and the Mortgage Credit Directive (MCD). The Danish authorities and EBF further commented on the need for standardisation and harmonisation of the different pieces of sector-specific and horizontal legislation relating to financial services. For example, the Danish Competition and Consumer Authority highlighted that streamlining and simplification of the DMFSD, particularly in relation to information requirements in product-specific legislation, could help to reduce the administrative burden for financial providers.

BIPAR and FPS Economy commented on the need to evaluate whether the DMFSD is still fit for purpose in light of digitalisation. FPS Economy raised the question of whether new technological tools developed in the financial services sector might help to encourage more cross-border activity and thus overcome the 'national reflex' of European consumers. The EBF noted that new banking products such as peer-to-peer lending should be better regulated to ensure consumer protection.

Finance Watch suggested looking further into how correct information on products and services can be provided to consumers, along with advice, creditworthiness and strong compliance with GDPR. Insurance Europe and the Danish Competition and Consumer Authority were concerned that too much information is already provided to the consumer.

Open public consultation (OPC)

Part I - Consumers

- Information provided on the financial service acquired: almost all of the respondents stated that they had received enough information on the provider (96%) and on the service acquired (100%). The majority found that the information provided was suitable for the device they were using. Respondents were slightly less satisfied with the structure and clarity of the documents received and with the time available for review of the information.
- Reasons not to complete the financial service transaction: 80% of consumers were uncomfortable with the level of information provided, finding it either incomplete, complicated, or unclear. 78% stated their preference for face-to-face contact at a physical branch of the provider when finalising the transaction.
- Importance of the rights granted by the Directive when purchasing at a distance: i) information about the main characteristics of the service, including any associated costs (92%), ii) information about the provider (85%), iii) right of withdrawal (76%).
- Most valued information elements: the majority of respondents considered all pieces of information important. Information on price - including all possible fees and charges - as well as the description of the service provided were considered very important (92%). Fewer respondents noted that other information was important, such as out-of-court redress mechanisms (51%), language of the contract (58%) and information on the applicable law (55%).
- Presentation of information: the majority of respondents considered all elements of presentation to be very important, with most preferring presentation that enabled them to compare products (76%) or a presentation adapted to the channel used (71%).
- When information should be presented: almost all respondents (95%) agreed that the information they considered important should be provided by default, for instance on the product page or the provider's website, regardless of whether

they wish to purchase it. The majority (58%) noted that information should be provided well before the contract was signed.

- Cross-border purchases: close to one-third claimed to have already bought cross-border or tried to do so (32%), while 11% claimed to be satisfied by domestic offers or to prefer face-to-face contact (11%). The main reasons for not pursuing a cross-border transaction were doubt about their rights or where to turn in case of a problem (25%), followed by language barriers (23%).
- Cross-border purchase experiences: only 26% of respondents obtained the product and were satisfied with the outcome. In 60% of cases, the transaction was not possible because access to the website was blocked (20%), it was not possible to complete the transaction (16%) or consumers were redirected to the website specific to their country of residence (15%).

Part II – Other stakeholders

- On the **relevance** of the DMFSD: the majority of industry stakeholders and public authorities (from 50-100%, depending on the specific aspect covered) considered the legal dispositions, technology-neutral approach and horizontal scope of the Directive either totally or somewhat relevant. By contrast, the majority of consumer associations considered most of those aspects somewhat irrelevant, with the exception of requirements on providing information about the services, conditions and supplier and the horizontal scope of the Directive.
  When justifying their responses about the less relevant aspects, stakeholders pointed to the regulatory overlap and coordination with more recent EU horizontal and product-specific legislation. More than half of the respondents from all groups felt that there are issues that the current formulation of the DMFSD fails to address. These include the quality of consumer information and advice provided by financial providers, consumer privacy and profiling, the transposition options of Member States, better clarity on the DMFSD interplay with product-specific legislation and on some of its concepts (e.g. 'in good time' and 'durable medium').

- On the **effectiveness** of the DMFSD: most respondents from public authorities and industry stakeholders indicated that all surveyed aspects/features (i.e. the legal dispositions contained in the Directive, the level of harmonisation of national legislation, the technology-neutral approach of the DMFSD and its horizontal scope) were very or somewhat effective (between 55-100% of respondents, depending on the specific aspect covered). The majority of consumer associations, however, noted that most of those aspects were somewhat ineffective, with the exception of requirements on providing information on the supplier, the existence of a right of withdrawal and the horizontal scope of the Directive.

  Two main reasons were provided by stakeholders to justify their responses. Firstly, non-optimal framework coordination between the DMFSD, horizontal and product-specific legislation at EU and national legislation, and secondly, concerns about the effectiveness of enforcement of particular features, notably information disclosure requirements, unsolicited communication and service bans.

- On the **efficiency** of the DMFSD: the majority of industry stakeholders considered the information requirements, the existence of a right of withdrawal and the ban on unsolicited communications as somewhat costly (48-73%), while the ban on unsolicited services was not considered costly (43%). Most public authorities stated that all key requirements of the provision are not costly. The majority of stakeholders from all groups (26 of 43) considered all key requirements of the Directive very or somewhat beneficial, and mostly attributable to the DMFSD directly. Ten noted that product/sector specific legislation is more recent and thus plays a greater role than the Directive. Most respondents were positive on the cost-benefit analysis (49%), with only 18%

expressing a negative view. All consumer associations considered the benefits of the DMFSD to outweigh its costs.

- On **burden reduction and simplification** of the DMFSD: about 20% of the respondents stated that there is no room for simplification and reduction of costs associated with the Directive. The remaining 80% suggested some areas for burden reduction and simplification, chief among which were: simplification of the information to be provided to customers (seven respondents from across all groups except consumer associations); elimination of the requirements of the Directive that are not specifically related to distance selling channels (five industry stakeholders); tailor the DMFSD to refer to other applicable legislation (nine industry stakeholders) to avoid duplication of information and disclosure requirements with other European and national legislation.
- On the **coherence** of the DMFSD with key EU horizontal and product-specific legislation (i.e. Geo-blocking Regulation, e-commerce Direct (ECD), ePrivacy Directive (EPD), General Data Protection Regulation (GDPR), Unfair Contract Terms Directive (UCTD), Unfair Commercial Practices Directive (UCPD), Alternative investment fund managers Directive (AIFMD), Prospectus Regulation, EU Regulation 1286/2014 on packaged retail and insurance-based investment products (PRIIPS), the Undertakings for the collective investment in transferable securities Directive (UCITS), the Market in Financial Instruments Directive (MiFID), the Insurance Distribution Directive (IDD), Payment Services Directive (PSD), the Mortgage Credit Directive (MCD) and the Consumer Credit Directive (CCD): a significant share of industry stakeholders were unable to assess the coherence of the DMFSD with the relevant EU legislation. Of those that could, a substantial majority considered the DMFSD somewhat coherent with all listed legislation. More than half of the consumer associations considered the DMFSD very coherent with most of the listed EU legislation. The exceptions were: Geo-blocking Regulation, ECD, EPD and PSD, which were believed to be somewhat incoherent with the DMFSD. The majority of the public authorities struggled to assess the coherence of the DMFSD with the Geo-blocking Regulation, the ECD, the EPD, the GDPR, the AIFMD, the UCITS and the IDD. Of those that could, however, the majority considered those pieces of legislation somewhat coherent with the DMFSD. With respect to the remaining pieces of legislation, the overwhelming majority considered them very or somewhat coherent with the DMFSD. The CCD, the MCD, the UCTD and the UCPD were largely considered to be very coherent with the DMFSD.
- On the **EU added value** of the DMFSD: the majority of stakeholders agree that the DMFSD brought high or medium added value (over and above what could reasonably have been expected from national legislation in the Member States alone) in all surveyed aspects, namely: helping to address cross-border problems (about 60%), legal clarity (about 65%), better functioning of the single market (about 70%) and better consumer protection (about 85%). Some minor divergences were evident between consumer associations and industry stakeholders. While 43% of the industry stakeholders noted that the DMFSD had a low added value in the context of legal clarity, consumer associations assessed this added value as medium or high. By contrast, while 50% of the consumer associations consider the DMFSD to have a low added value on the functioning of the single market, 74% of industry stakeholders considered the Directive to provide medium-high added value here.

  On the added value of the DMFSD compared to product-specific legislation, half of the respondents (10 from public authorities, seven from business associations, five from company/business organisations, three from consumer associations and one academic/research institution) reported that the Directive brought additional value compared to product-specific legislation, mostly due to its nature as umbrella legislation and its technology-neutral approach. Twelve respondents (five from business associations, four from company/business organisations and three from public authorities) noted that the Directive brings limited added value when compared to product-specific legislation because of duplication and overlap with that product-specific legislation. Nine respondents (four from business associations, three from company/business organisations, one NGO and one EU citizen) indicated that the DMFSD did not bring any added value because product-specific rules make the provisions of the Directive not relevant anymore.

Targeted stakeholder consultation

Relevance

- An overwhelming majority of business and consumer associations and national authorities (80%) stated that the DMFSD meets current challenges and needs to some extent (45%) or completely (35%). Consumer associations had more difficulties in expressing an opinion (38%) and were also the least positive about the relevance of the Directive (although the majority was still positive).
- Some stakeholders noted that there are several gaps not properly addressed by the DMFSD:
  - Digitalisation has led to faster selling procedures, and consequently, to more impulsive purchases. A reflection period or an opt-in period instead of the current right of withdrawal would better address this, in the opinion of three public authorities. The procedure to exercise the right of withdrawal should not be burdensome (two public authorities).
  - Some consumer biases are not (fully) addressed by the DMFSD and have become more relevant as a result of digitalisation (according to feedback received from five public authorities, four industry stakeholders and two consumer associations). The Directive should consider not only the amount of information but also the way in which that information is presented and provided to consumers (means, format and time) via the various digital channels (e.g. smartphone apps), as well as the challenges around explicit consent (for example, by regulating electronic signatures and the admissibility of some practices, such as pre-ticked boxes and product bundling) and the quality and trustworthiness of the advice.
  - The Directive does not provide for specific provisions on the form of the distance contract, which could be adopted to ensure a level playing field among Member States (one public authority).
- Some stakeholders (three public authorities, three industry stakeholders and two consumer associations) highlighted that some of the needs addressed by the DMFSD (e.g. unsolicited communications) are already covered by other, (often) more stringent EU horizontal and product-specific legislation. Nevertheless, most stakeholders believe the horizontal scope of the Directive to be important, as it is it is essential to ensure a minimum level of consumer protection for all types of financial services and to preserve a level playing field between distributors, intermediaries and potential emergent business models entering the market.
- The DMFSD would benefit from clarification of some definitions (three public authorities, one industry stakeholder and one consumer association) including: 'in good time', 'durable medium' and 'financial service' (e.g. to ensure that cryptocurrencies and other similar products are covered by the DMFSD).

Effectiveness

- Overall, around three-quarters of the consumer associations and two-thirds of the business associations are satisfied with the DMFSD's contribution to the development of distance selling of financial services at national and EU level[565]. Only 8% (all consumer associations) indicated that they were not satisfied,

[565] Stakeholder surveys and interviews.

mostly because of overlaps and inconsistencies with the product-specific legislation. Some stakeholders reported that was difficult to assess effectiveness, with one consumer association suggesting that the DMFSD should include indicators and define a process to monitor its effectiveness.

- The majority of stakeholders from all groups (77-100%) agreed that the DMFSD has contributed to increased consumer protection in the long run (public authorities are particularly positive about the role of the DFMSD in protecting consumer rights, and how is has worked well in practice (more than 75%)):
  - The majority of consumer and business associations (more than 55%, with only 6% disagreeing) stated that the DMFSD changed the provision of pre-contractual information, in practice.
  - Around three-quarters of stakeholders reported that the DMFSD provisions on pre-contractual information contributed to increased consumer confidence, knowledge and understanding of the services purchased, with only 3% disagreeing. Consumer associations held the least positive view of the effectiveness of pre-contractual information, with only 54% agreeing that those provisions have been effective (however, only 8% disagreed, while 38% were neutral).
  - Most stakeholders (69-88%) consider the right of withdrawal effective in helping consumers that change their minds about the products they have bought. Public authorities had the highest percentage of respondents that consider this provision effective (around 83%), followed by industry stakeholders (around 80%). Consumer associations and public authorities highlighted that consumers sometimes face various obstacles when exercising the right of withdrawal, including a lack of awareness of the right (e.g. because they were not informed about it).
  - A majority of stakeholders from all groups (more than 69%) felt that the DMFSD has contributed to protecting consumers against unsolicited communications and services to some extent. All stakeholders considered the provision on unsolicited services more effective than that on unsolicited communications.
- On the effectiveness of the DMFSD in consolidating the single market:
  - More than half of the stakeholders stated that the DMSD contributed to increasing the level of harmonisation or convergence between national legislation (35% neither agreed nor disagreed). Opinions varied among the three groups of stakeholders, however. Public authorities generally agreed (about 80%) that the DMFSD had a positive effect on the level of harmonisation of national laws, while only 40% of the business providers and consumer associations thought the same. 29% and 24% of business associations and consumer associations, respectively, believed that the DMFSD had no effect on the convergence of national law on distance marketing of financial services. Several mentioned that the possibility of regulatory choices allowed in the DMFSD led to discrepancies between national legislation.
  - Stakeholders had diverging views on the extent to which the DMFSD contributed to increasing cross-border distance sales of financial services, with most neither agreeing nor disagreeing (46%). The majority of public authorities tended to agree that it had a positive contribution.
  - About half of the stakeholders felt that the DMFSD contributed to increased competition and increased choice of financial services. The majority (54%) of consumer associations, however, did not take a position.

Coherence

- About 15% of the stakeholders consulted (29% industry stakeholders, 15% consumer associations and 4% public authorities) stated that the Directive is not in line and coherent with legislation at EU level related to financial services or affecting financial institutions. Between 46% (consumer associations) and 88% (public authorities) indicated that, overall, the DMFSD is coherent with other EU legislation. 4-6% (depending on the stakeholder group and type of product) indicated inconsistencies between the DMFSD and product specific legislation, 6-14% that there are unjustifiable overlaps, and 2-8% that there are unaddressed gaps.

Efficiency and burden reduction and simplification

- 41% of industry stakeholders and 60% of consumer associations noted that the costs of implementation of the DMFSD are proportionate to its benefits. Only 12% of industry stakeholders disagreed, while 47% of industry stakeholders and 40% of consumer associations neither agreed nor disagreed. Industry stakeholders consider the provision of information particularly burdensome, as they had to adapt their systems and products.
- Most stakeholders (58%) did not express their views on opportunities for simplification. Of those that did, most indicated that such opportunities exist, chiefly because of the scope to harmonise the DMFSD with other EU legislation.

EU added value

- An overwhelming majority of stakeholders from all groups (more than 85%) stated that there is an added value in adopting EU-level legislation (compared to national legislation) in the area of financial services to ensure a higher level of consumer protection.

Consumer survey

The results of the consumer survey are published in the evaluation study. Key findings include:

- On searching and finalising a distance purchase: three-quarters of the consumers searched for financial services on the internet, 12% by post and 12% via a phone call. 33% had not purchased products, while 47% finalised the transaction using a distance mean of communication and 19% finalised it face-to-face with the provider. The main reasons why consumers decided not to conclude a distance contract were concerns about the provider not having a physical branch (43%), the unsuitability of the service (25%) and the insufficiency of the information provided (15%). Of those that finalised the purchases at distance in the last five years, the most common services purchased were insurance (31% of products), credit (27%) and payment accounts (15%). About 25% were purchased from a provider from another Member State. Regarding the last distant contract entered into by the respondents, 61% were negotiated over the internet (39% online and 22% by email), while 26% were negotiated over the phone.

- Cross-border: while about 90% of the respondents were quite or very satisfied with the possibility of buying financial services at a distance from various Member States, only 15% had purchased (or tried to purchase) financial services from another EU country, and 32% had not done it but were open to the idea in order to find better deals. Half of the respondents would not consider it because they were unsure about their rights and where to turn to get redress in case of a problem (36%), were satisfied with the services/conditions offered in their country (26%), preferred face-to-face contact (23%) and due to language barriers (15%). Of those that had tried to purchase financial services in another Member State, only 15% could access the offers and were satisfied with the outcome. Almost half (48%) did not manage to access the offer because they were redirected to the website specific to their country (29%), they did not manage to access the website (19%), they had problems understanding and comparing information (21%) or could not complete the transaction (3%).

- On the relevance/importance of the specific objectives of the DMFSD: an overwhelming majority (above 90%) of consumers considering purchasing financial services at a distance found it somewhat or very important a) to have the right of withdrawal from the contract, b) to receive information about the service, conditions and provider, c) not to have pre-ticked boxes adding services, and d) not to be contacted by the provider without their prior agreement. More than 60% felt that the first two aspects were very important. More than 92% of respondents believed that all specific information requirements imposed by Article 3 of the DMFSD were somewhat or very important in order to make a decision. In fact, for the majority of consumers, all pieces of information are very relevant, with the exception of information on options and procedures for small compensation claims, and information on the availability of guarantees.
- On the relevance of the presentation of the information: more than 86% of consumers considered it somewhat or very important that the information was presented prominently and immediately (54% considered it very important), in a format that enabled them to compare it with other products (49% considered it very important), in a way that is adapted to the channel of communication used (44% considered it very important) and so as to choose the format in which the information can be accessed (37% considered it very important).
- On compliance with pre-contractual information requirements: the overwhelming majority of the respondents reported having received information on the characteristics of the services (80% of cases), on the terms and conditions (about 80%) and on redress mechanisms (70% of cases). In about 77-80% of the cases, the information was provided spontaneously. A significant share of the respondents indicated that pre-contractual information was usually provided 'in good time', before the signature of the contract (in 38% it was provided on the website of the provider, while 31% received it more than 24 hours before signing).
- On the effectiveness of the information provided: respondents tended to agree with the statements on the quality and presentation of the information on financial services, with only 13-21% disagreeing and 23-31% being neutral. However, less than 20% strongly agreed that the information allowed them to make informed decisions, that the information on the service, their right of withdrawal and to complain and seek redress was adequate, and that the presentation of the information enabled them to compare products.
- On the effectiveness of the ban on unsolicited communications and services: 32% of the respondents reported having received unsolicited communications about retail financial services without giving their prior agreement. Of those that received unsolicited communication, 54% received unsolicited emails, followed by 44% who received unsolicited calls from salespersons. Automatic calling machines and SMS were received by 25% and 20% of respondents, respectively. Only 3% had issues with unsolicited services.
- On compliance with the right of withdrawal: of the 10% of consumers who cancelled the contract using their right of withdrawal, only 2% experienced problems.

Ad hoc contributions

Eight stakeholders (three industry stakeholders, four national authorities and the EBA) sent *ad hoc* contributions to the evaluation, some of which were position papers and others were the completed OPC questionnaire.

- **Relevance:** of the six stakeholders that provided an opinion on the relevance of the DMFSD horizontal scope, technology-neutral approach and key provisions, three considered most of those aspects totally or somewhat relevant, while three industry stakeholders considered most of the aspects somewhat irrelevant due to a number of more recent service and product-specific EU directives.

Four stakeholders (one industry stakeholder, two national authorities and the EBA) highlighted the need to address issues related to the amount, presentation and provision of the information to the consumers (timely and adapted to the device) in order to make sure they read and understand it. One industry stakeholder believed there to be no significant difference between face-to-face communication and video calls. The EBA suggested that the DMFSD should ensure that the process of cancelling the right of withdrawal should not be burdensome and that pre-ticked boxes should not be allowed. One national authority mentioned that the Directive should cover aspects of consumer privacy.

- **Effectiveness:** of the six stakeholders that provided an opinion on the effectiveness of the DMFSD horizontal scope, technology-neutral approach and key provisions, five considered most of those aspects totally or somewhat effective, while one industry stakeholder considered most of the aspects somewhat ineffective due to a number of more recent service and product-specific EU directives and lack of clarity on the right of withdrawal. Two industry stakeholders and two public authorities considered the effectiveness of the Directive to have been impacted by the existence of product-specific legislation.
- **Efficiency and burden reduction and simplification:** on the implementation costs of the DMFSD, views varied. One industry stakeholder considered the information requirements and the right of withdrawal very costly, while another considered them somewhat costly and a third not costly (except for the requirement regarding the provision of information over the phone). Other aspects were similarly considered not costly. Five stakeholders (three public authorities and two industry stakeholders considered the DMFSD beneficial and noted that its benefits outweighed its costs. Of the remaining stakeholders, one business association disagreed while others provided no opinion.

  Three public authorities mentioned that harmonisation with other EU legislation could reduce the burden of the DMFSD on providers, with one national authority suggesting that simplification of the information requirements could be beneficial.
- **Coherence**: of the six stakeholders that provided an opinion on the coherence of the DMFSD with other EU legislation, five considered it somewhat coherent, while one industry stakeholder considered it somewhat incoherent (mostly due to the Consumer Rights Directive, whose Recital 32 expressly calls for the scope of the Directive to be extended at national level to cover financial services).
- **EU added value:** of the five stakeholders that provided an opinion on the EU added value of the DMFSD, two national authorities considered it to be of high value (except the legal clarity, which had medium value), while industry stakeholders stated, variously, that its value was low (one stakeholder), medium for consumer protection and low for consolidation of single market (one stakeholder) and high, with the exception of legal clarity (one stakeholder).

Overall results

The results of the various stakeholder consultations suggest some common ground and shared areas of concern among the various groups. The small number of divergent views is to be expected, given the different background and experiences of the various stakeholders.

- **Relevance**: overall, stakeholders from all groups considered the DMFSD relevant to some extent, as it provides a safety net to capture distance selling of any new financial services/products and ensures that a solid consumer protection framework is in place. Nevertheless, a considerable number of stakeholders indicated that a) some consumer behavioural biases and needs related to the amount, presentation and provision of the information (timely and adapted to the device) are not fully addressed by the DMFSD, and b) the implementation of EU horizontal and product-specific legislation since 2004 contributed to address consumer and providers' needs originally addressed by the DMFSD and thus reduced the relevance of the Directive.

- **Effectiveness**: the majority of the stakeholders from all groups stated that the DMFSD contributed to a) increase consumer confidence, knowledge and understanding of the products purchased, by encouraging sufficient information disclosure prior to the conclusion of the contract, and b) help consumers that changed their mind about the products they have bought. On the other hand, the objective of single market consolidation has been achieved to only a limited extent, as many barriers to cross-border purchases (from both consumer and supply side) are beyond the influence of the DMFSD. A significant share of stakeholders indicated that product-specific legislation has contributed to the achievement of those objectives as well.
- **Coherence:** most stakeholders from all groups noted that the DMFSD was somewhat coherent with other EU legislation. Nevertheless, a significant share were unable to assess coherence, while others reported the existence of inconsistencies, unjustifiable overlaps and gaps between the Directive and the other pieces of EU legislation.
- **Efficiency and simplification:** the majority of the stakeholders did not provide an opinion on the costs and benefits of the Directive. Of those that did, most agreed that the implementation of the DMFSD was somewhat costly but that its benefits outweighed its costs.

  Some stakeholders believe that there is space for burden reduction and simplification. Of those, the majority indicated that the EU legal framework on financial services should be harmonised. Other stakeholders suggested that reduction of burden/simplification could be achieved by simplifying the information provided and by better streamlining information throughout the customer journey. Limiting information overload, improving information readability and usefulness, they felt, would benefit consumers.
- **EU added value:** the stakeholders generally believe that the DMFSD has a high or medium level of added value, in particular in ensuring better consumer protection and better functioning of the single market. While the majority of industry stakeholders agreed, the agreement was higher among public authorities and consumer associations.

Annex 7 - Quantification methodology and limitations

This Annex provides a description of the approach used to quantify the market evolution, attribution of impacts to DMFSD and the main benefits and costs to consumers, financial providers and public authorities that can be attributed to the DMFSD since its introduction in 2004.

The methodology follows the guidelines provided by:

- The Europe Economics study for DG SANCO on the most appropriate methodologies to estimate consumer detriment[566];
- The operational guidance document on measuring personal consumer detriment developed as part of the Study on measuring consumer detriment in the EU[567];
- The Commission's Better Regulation Guidelines and the accompanying Toolbox (such as Tool #32 Consumers; Tool #58 Typology of costs and benefits; Tool #59 Methods to assess costs and benefits; Tool #60 The standard cost model for estimating administrative costs)[568].

[566] Europe Economics (2007). An analysis of the issue of consumer detriment and the most appropriate methodologies to estimate it. DG SANCO. Available at: http://ec.europa.eu/consumers/strategy/docs/study_consumer_detriment.pdf
[567] CIVIC (2017). Study on Measuring Consumer Detriment in the European Union. Available at: https://ec.europa.eu/info/sites/info/files/consumer-detriment-study-final-report_en.pdf
[568] European Commission (2015). Better Regulation Guidelines.

Market evolution

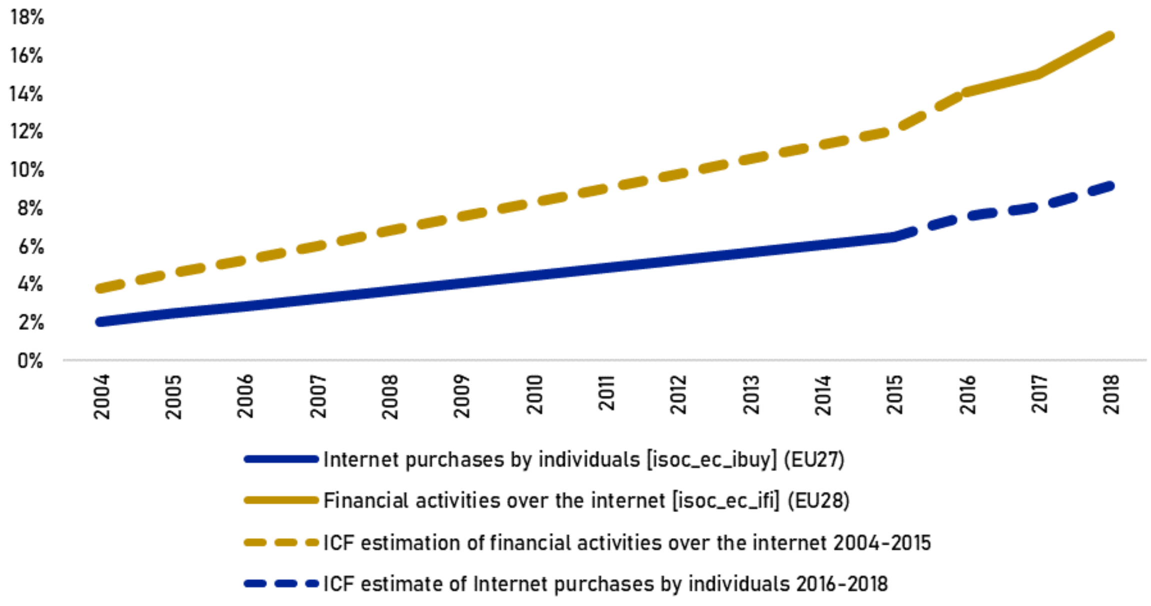
The evaluation did not find data on the market evolution of the financial services sold through all distance means of communication between 2004 and 2018. Consequently, an estimate had to be made based on data available.

Eurostat provides data on the percentage of the population aged between 16 and 74 that has purchased at least one financial service over the internet in two different datasets, one for the period 2004-2015 (isoc_ec_ibuy) and one for the period 2016-2018 (isoc_ec_ifi). However, the Eurostat data for the period 2004-2015 do not seem directly comparable with the data for the period 2016-2018 (since the value for 2015 is 6% and the value for 2016 is more than twice that, at 14%).[569]

In Figure 70, the Eurostat data ~~available~~ for 2004-2015 and 2016-2018 is presented. Additionally, the figure shows the ICF estimates for the dataset after/before the 20015/2016 discontinuity. The estimates were done by: (1) extrapolating the data of the 2004-2015 dataset to 2016 using linear regression and then applying the yearly variation of the dataset 2016-2018 to extrapolate the estimated 2016 data point for that period; (2) extrapolating the data of the 2016-2018 dataset to the period 2004-2015 by applying the yearly variation of the dataset 2004-2016 obtained in the previous step to the 2016 data point.

These estimates provide an upper and lower bound to the percentage of individuals that have purchased a financial service online in the 12 months prior to the survey.

Figure 70. Financial services purchases or activities over the internet between 2004 and 2018 (% of the EU population aged between 16 and 74)

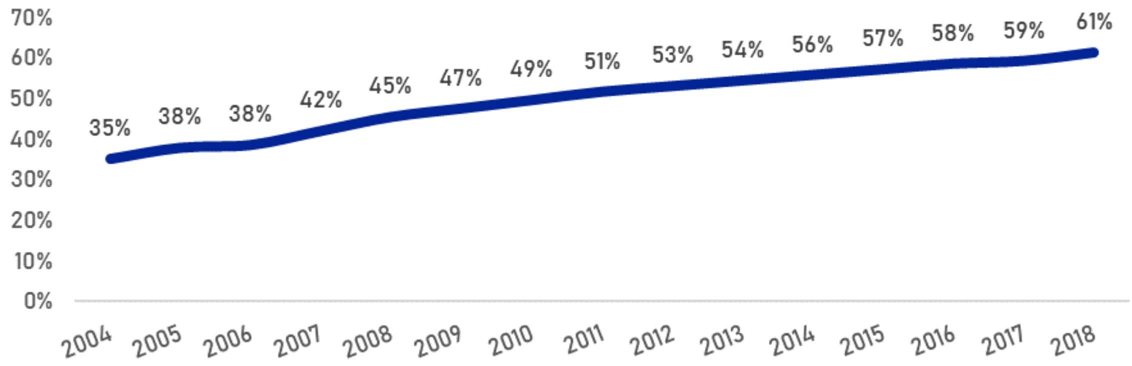


Source: Eurostat [isoc_ec_ifi] and [isoc_ec_ibuy] & ICF (2019) elaboration of existing data and assumptions.

Based on the consumer survey, the share of purchases over the internet in the total distance purchases is 61% for 2019. We extrapolated this data point for the period 2004-2018, assuming that this share evolved in the period 2004-2018 with the use of internet. See Figure 71.

[569] While the question asked in the 2004-2018 surveys was identical, the prompts provided to the respondents were more detailed in the 2016-2018 surveys. Possibly consumers were able to more easily realise that they had a financial service when provided with more details about what financial services can consist of.

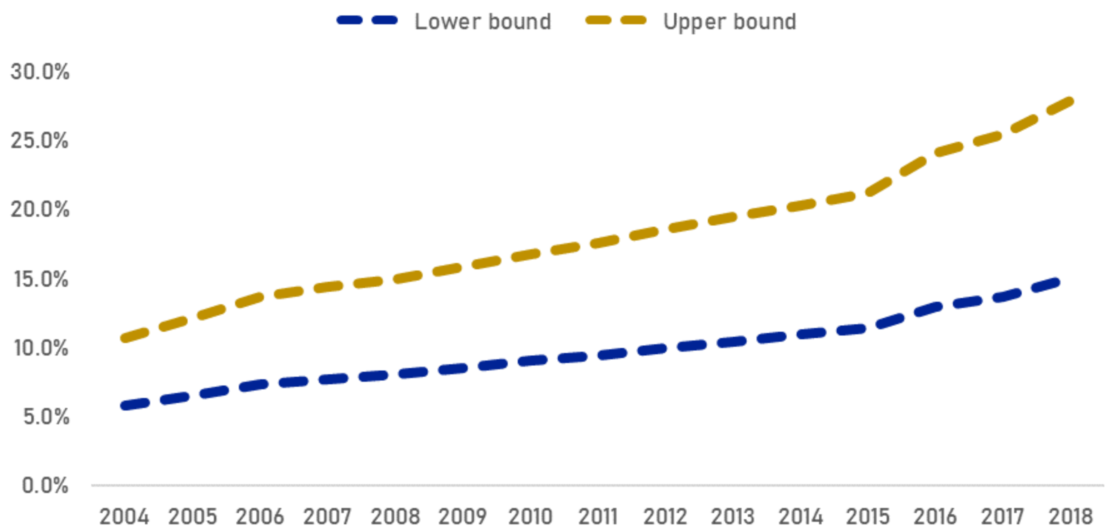
Figure 71. Evolution of the share of purchases of financial services over the internet in the total of distance sales



Source: ICF (2019) elaboration of existing data and assumptions.

Finally, we estimated the percentage of population that has purchased at least one financial product at distance by dividing the percentage of population that has purchased at least one product at distance by the share of online purchases in the total distance purchases. See Figure 72.

Figure 72. ICF estimation of distance sales of financial services between 2004 and 2018 (% EU population aged between 16 and 74)



Source: ICF (2019) elaboration of existing data and assumptions.

Attribution of impacts to DMFSD

Not all costs and benefits related to the provision of pre-contractual information and right of withdrawal and to the ban on unsolicited communications and services in the period 2004-2018 can be attributable to the DMFSD. In this section we explain how the attribution rates for each key provision were estimated:

Step 1. Estimate the maximum change in providers' practices that could be attributed to each provision of the DMFSD per product at the baseline (i.e., baseline attribution rates)

Step 2. Estimate the displacement of those attribution rates to other legislation in the period 2004-2018;

Step 3. Estimate the attribution of costs of providers considering the compliance level per provision.

Step 4. Estimate the attribution of benefits to consumers considering the share of problems that each provision could reasonably address.

<u>Step 1. Baseline attribution rates</u>

The overall attribution of impacts to DMFSD at the baseline depends on the number of countries that already regulated some/all aspects of the DMFSD and how much of the practices of financial providers were already in line with the requirements of the DMFSD:

- Pre-contractual information: more than one third of the countries had partially regulated this aspect. Therefore, based on a conservative estimate, the DMFSD brought benefits mostly to the remaining 14. Furthermore, it is expected that in those 14 countries, a share of financial providers was already providing some of that information to consumers (e.g., information about the characteristics of the products). Consequently, the attribution of the DMFSD provision on pre-contractual information at the baseline was estimated to be around 50%.
- Right of withdrawal: about 7 Member States out of 25 already had regulations covering this aspect. Therefore, based on a conservative estimate, the DMFSD brought benefits mostly to the remaining 18. It is not expected that providers in those 18 countries were providing the right of withdrawal to consumers spontaneously. Consequently, the attribution of the DMFSD provision on right of withdrawal at the baseline was estimated to be around 72%.
- Unsolicited communications and services: about 9 Member States out of 25 already had regulations covering these aspects. Therefore, based on a conservative estimate, the DMFSD brought benefits mostly to the remaining 14. However, the EDP implemented in 2003 already covered the ban on unsolicited communications. Consequently, the attribution of the DMFSD provisions on unsolicited communications and services at the baseline was estimated to be around 8%.

In order to estimate the baseline attribution per product type the following was considered:

- Existing legislation on investments the impact of the DMFSD on this type of products was minimal;
- Some mortgages and insurances are not covered by Article 6 of the DMFSD and therefore the baseline attribution rate of this provision for these types of products was reduced to around 40%; A small share of banking products might not be covered by this right either and therefore the baseline attribution rate of this provision for these types of products was reduced to 95% of the overall rate to around 68%.

Product/Service type	Pre-contractual information	Right of withdrawal	Unsolicited communications and services
Banking products	50%	68%	8%
Mortgage	50%	39%	8%
Credit / loans	50%	72%	8%
Insurance	50%	43%	8%
Pensions	50%	72%	8%
Payment services	50%	72%	8%
Investments	5%	5%	8%

Step 2. Displacement of attribution to other legislation in 2004-2018

With the introduction of EU horizontal and product-specific legislation in the period of analysis, the attribution of impacts on providers' practices to DMFSD was displaced by those pieces of legislation:

- In 2007, half of the impacts of the DMFSD on all products stemming from the unsolicited services were displaced by and transferred to the UCPD;
- In late 2009/2010, about 60% of the impacts of the DMFSD on payment accounts and payment services stemming from the pre-contractual information were displaced by and transferred to the PSD I. And about 60% of the impacts of the DMFSD on payment services stemming from the right of withdrawal were displaced by and transferred to the PSDI;
- In 2010, impacts of the DMFSD on consumer credits stemming from the pre-contractual information and right of withdrawal provisions were mostly displaced by and transferred to the CDD. Based on the data from the consumer survey it was estimated that a share corresponding to credits below EUR 250 and above EUR 75,000 was still attributable to the DMFSD;
- In 2016, all impacts of the DMFSD on mortgages from the pre-contractual information were displaced by and transferred to the MCD, while the half of the impacts stemming from the right of withdrawal were displaced by and transferred to the MCD;
- In 2016, about half of the impacts of the DMFSD on insurances from the pre-contractual information were displaced by and transferred to the Solvency II;
- In 2018, all impacts of the DMFSD on payment services stemming from the pre-contractual information, the right of withdrawal and unsolicited services provisions were displaced by and transferred to the PSD II.
- In 2018, most impacts of the DMFSD on insurances from the pre-contractual information were displaced by and transferred to the PRIPPs and IDD.

Step 3. Calculation of the attribution of changes in providers practices to DMFSD

The attribution of changes in providers' practices to the DMFSD was estimated considering what part of the baseline attribution could still be attributed to each provision of the DMFSD, considering the displacements described in the point above and the following compliance levels per provider (the rationale is that those companies that do not comply with the DMFSD do not have compliance costs):

- Pre-contractual information: 60%
- Right of withdrawal: 70%
- Unsolicited Communications and Services: 70%
- Other aspects of DMFSD: 70%.

In the following tables present the share of changes in providers' practices that can be attributable to the DMFSD are presented per provision and type of product.

Table 194. Attribution of changes in providers' practices to the DMFSD provision on pre-contractual information

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	30%	30%	30%	30%	30%	30%	12%	12%	12%	12%	12%	12%	12%	12%	12%
Mortgage	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	0%	0%	0%
Credit / loans	30%	30%	30%	30%	30%	30%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Insurance	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	17%	17%	8%
Pensions	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%
Payment services	30%	30%	30%	30%	30%	30%	12%	12%	12%	12%	12%	12%	12%	12%	0%
Investments	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%

Table 195. Attribution of changes in providers' practices to the DMFSD provision on rights of withdrawal

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	48%	48%	48%	48%	48%	48%	48%	48%	48%	48%	48%	48%	48%	48%	48%
Mortgage	27%	27%	27%	27%	27%	27%	27%	27%	27%	27%	27%	27%	14%	14%	14%
Credit / loans	50%	50%	50%	50%	50%	50%	13%	13%	13%	13%	13%	13%	13%	13%	13%
Insurance	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%
Pensions	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
Payment services	50%	50%	50%	50%	50%	50%	20%	20%	20%	20%	20%	20%	20%	20%	0%
Investments	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%

Table 196. Attribution of changes in providers' practices to the DMFSD provision on unsolicited communications and services

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	2%
Mortgage	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	2%
Credit / loans	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	2%
Insurance	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	2%
Pensions	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	2%
Payment services	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	0%
Investments	6%	6%	6%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	2%

Step 4. Attribution of benefits to the DMFSD

Based on the analysis of the evaluation of consumer needs and data from the CIVIC(2017) study, it was estimated that the rate of problems that each provision can address is:

- Pre-contractual information: between 15% and 30%
- Right of withdrawal: between 6% and 10%
- Unsolicited communications and services: between 2% and 4%.

Consequently, the share of benefits (due to reduction of consumer personal detriment) that can reasonably be attributed to the DMFSD are equal to the share of changes in providers' practices (see Step 3) multiplied by the estimated rates of problems that can be addressed by each provision.

Table 197. Attribution of impacts on consumer benefits to the DMFSD provision on pre-contractual information

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%
Mortgage	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	0.0%	0.0%	0.0%
Credit / loans	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%
Insurance	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	3.6%	3.6%	1.7%
Pensions	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%
Payment services	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%	2.6%	0.0%
Investments	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%

Table 198. Attribution of impacts on consumer benefits to the DMFSD provision on rights of withdrawal

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%
Mortgage	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	1.1%	1.1%	1.1%
Credit / loans	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Insurance	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
Pensions	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%
Payment services	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	0.0%
Investments	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%

Table 199. Attribution of impacts on consumer benefits to the DMFSD provision on unsolicited communications and services

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%
Mortgage	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%
Credit / loans	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%
Insurance	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%
Pensions	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%
Payment services	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%
Investments	0%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%

Benefits

According to its two main objectives, the DMFSD should have the following benefits:

- Consumers are better protected, which in turn leads to lower consumer detriment (possible lower incidence/magnitude of problems) and an increase in demand.
- Level playing field, potentially leading to an increase in cross-border and domestic supply.

The evaluation found evidence that the DMFSD had increased consumer protection. It did not, however, find evidence that changes in the demand or supply of financial services through distance means of communication can be directly attributed to the DMFSD. The impact of the DMFSD was only quantified in respect of the reduction in consumer:

- personal detriment between 2004 and 2018;
- structural detriment between 2004 and 2018.

Reduction of personal detriment

Personal detriment refers to the loss of welfare experienced by individuals due to problems that occur after their purchase and that were not expected (based on reasonable expectations). Personal detriment includes financial and non-financial losses (e.g. time losses, psychological detriment).

The steps taken to calculate the incremental effect of the DMFSD on personal detriment are outlined below.

Step 1. Estimation of the attribution of the impact of the DMFSD on the reduction of consumer detriment by main consumer protection objective and type of financial service/product (see section on attribution – step 4)

Step 2. Estimation of the magnitude of consumer personal financial detriment per problem and per service with the DMFSD

The estimation of the current magnitude of consumers' personal detriment per problem was based on the data reported in the following studies (see Table 200):

- Study on Measuring Consumer Detriment in the European Union[570];
- Consumer Detriment Survey 2014[571].

Table 200. Magnitude of financial detriment for financial services from reference studies

Type of financial service	Channel	Year	Magnitude (post-redress) EUR	Scope
Loans, credit and credit cards	All	2015	154.9	EU
Loans, credit and credit cards	Online	2015	166.3	EU
Financial Goods and Services	All	2014	206*	Ireland
Financial Goods and Services	Online	2014	171*	Ireland

**estimated based on the share of compensation in the gross costs reported in CIVI C(2017); **estimated based on ratio online/all from CIVIC (2017)*

[570] CIVIC (2017). Study on Measuring Consumer Detriment in the European Union. Available at: https://ec.europa.eu/info/sites/info/files/consumer-detriment-study-final-report_en.pdf
[571] Ipsos MRBI (2014). Consumer Detriment Survey 2014. Available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/Consumer-Detriment-Survey-2014-Report.pdf

The data on the magnitude of consumer detriment was only available for two years and for some types of financial services. It was extrapolated to the missing financial services and years using the Consumer Markets Scoreboard data on 'Percentage of people who complained after having experienced at least one problem', as the rate of complaints were considered likely to increase proportionally with the magnitude of the problem/consumer detriment[572].

Table 201. Magnitude of personal consumer financial detriment in the scenario with the DMFSD (EUR, 2018 prices)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	197	195	192	190	188	186	184	181	184	166	163	173	183	172	162	164
Mortgage	202	201	200	199	198	197	196	195	196	180	170	170	173	180	187	189
Credit / loans	184	182	181	179	177	176	174	173	173	160	154	164	173	167	158	160
Insurance	199	198	196	195	193	192	190	189	184	175	168	173	177	175	175	177
Pensions	188	187	185	184	182	181	180	178	177	175	174	173	171	170	169	171
Payment services	191	189	187	186	184	182	181	179	177	176	174	173	171	170	168	170
Investments	198	197	195	194	193	192	190	189	187	177	175	173	170	175	177	180

Step 3. Estimation of the time loss per problem and per service in the scenario with the DMFSD

The estimation of the time loss per problem in 2015 was based on the data reported in CIVIC (2017), which is also in line with the results of the consumer survey. These data were then extrapolated to the remaining financial services and years for the period 2003-2018, following the same approach as described above for the magnitude of consumer detriment. The personal consumer detriment due to time loss was then monetised using the population-weighted mean of the hourly earnings rate for the EU (as suggested by CIVIC (2017) at 2018 prices (i.e. EUR 13.65).

Table 202. Monetised time losses per problem and per financial service in the scenario with the DMFSD (EUR, 2018 prices)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	0.9	0.9	0.8	0.7	0.7	0.6	0.6	0.6	0.5	0.4	0.4	0.4	0.3	0.3	0.2	0.2
Mortgage	0.5	0.5	0.5	0.5	0.4	0.4	0.4	0.4	0.4	0.3	0.2	0.2	0.3	0.2	0.2	0.2
Credit / loans	0.6	0.6	0.6	0.5	0.5	0.5	0.5	0.4	0.4	0.3	0.3	0.3	0.2	0.2	0.2	0.2
Insurance	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.2	0.2	0.2	0.2	0.2	0.1	0.1	0.1
Pensions	0.4	0.4	0.4	0.4	0.4	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.2	0.2	0.2	0.1
Payment services	0.6	0.6	0.5	0.5	0.5	0.4	0.4	0.4	0.4	0.3	0.3	0.3	0.2	0.2	0.2	0.2
Investments	1.1	1.0	1.0	0.9	0.8	0.8	0.7	0.6	0.4	0.3	0.3	0.3	0.2	0.2	0.2	0.1

[572] This is a limitation of the analysis, as there are other factors that can influence consumers' decisions to complain or not (e.g. change in consumer behaviour, level of trust in the institution, etc.).

Step 4. Estimation of the rate of problems per financial service in the scenario <u>with</u> the DMFSD.

The problem rate was based on the Consumer Markets Scoreboard data on 'Percentage of people who experienced at least one problem' for the period 2010-2017 per type of financial service. The extrapolation to the period 2003-2009 and 2018 was based on a linear regression analysis.

Table 203. Rate of problems per financial service in the scenario with the DMFSD

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	27%	26%	24%	23%	22%	21%	19%	18%	17%	14%	14%	12%	10%	10%	9%	8%
Mortgage	18%	17%	17%	16%	15%	14%	14%	13%	13%	10%	9%	9%	10%	9%	8%	7%
Credit / loans	20%	19%	18%	17%	17%	16%	15%	14%	14%	12%	12%	10%	8%	8%	8%	7%
Insurance	11%	11%	10%	10%	9%	9%	8%	8%	8%	7%	6%	6%	6%	5%	5%	5%
Pensions	14%	13%	13%	12%	12%	11%	11%	11%	10%	10%	9%	9%	8%	8%	8%	5%
Payment services	19%	18%	17%	17%	16%	15%	14%	13%	12%	11%	11%	10%	9%	8%	8%	7%
Investments	36%	34%	32%	30%	27%	25%	23%	21%	14%	11%	10%	10%	9%	8%	6%	4%

Step 5. Estimation of the number of services per type of financial service/products

This was estimated based on the lower bound (low demand scenario) and the upper bound (high demand scenario) of the percentage of the EU population that purchased at least on financial services at distance (see section on market evolution) adjusted to the average number of products a person purchases per year assuming that on average a person owns around 1.4 insurances, 1.6 credits/loans and 1.5 investments, while it only owns 1 product of the other types of services[573]. The next tables present the share of financial services sold using distance means of communication owned by the EU population per type of service in the period 2004-2018, assuming a low demand and a higher demand respectively.

*Table 204. Financial services sold using distance means of communication owned by the EU population per type of service in the period 2003-2018 (% of total population) – **low demand***

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	2%	3%	3%	3%	3%	4%	4%	4%	4%	4%	5%	5%	5%	6%	6%
Mortgage	0%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Credit / loans	2%	2%	3%	3%	3%	3%	3%	4%	4%	4%	4%	4%	5%	7%	9%
Insurance	13%	15%	17%	18%	19%	20%	21%	22%	23%	24%	25%	27%	30%	33%	34%
Pensions	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	2%	2%
Payment services	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Investments	5%	5%	6%	6%	6%	7%	7%	8%	8%	8%	9%	9%	10%	10%	12%

[573] Consumer survey

*Table 205. Financial services sold using distance means of communication owned by the EU population per type of service in the period 2003-2018 (% of total population) – **high demand***

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking products	4%	5%	6%	6%	6%	7%	7%	7%	8%	8%	9%	9%	10%	11%	12%
Mortgage	1%	1%	1%	1%	1%	1%	1%	1%	1%	2%	2%	2%	2%	2%	2%
Credit / loans	4%	5%	5%	5%	6%	6%	6%	7%	7%	7%	8%	8%	9%	13%	17%
Insurance	25%	28%	32%	34%	35%	37%	39%	41%	43%	45%	48%	49%	56%	61%	64%
Pensions	1%	1%	1%	2%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%	3%
Payment services	1%	1%	1%	1%	1%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%
Investments	9%	10%	11%	11%	12%	13%	13%	14%	15%	15%	16%	17%	19%	19%	23%

The number of services was assumed to be roughly the same in the scenario with the DMFSD (which corresponds to reality) and the hypothetical scenario of the situation without the DMFSD.

Step 6. Calculation of the personal consumer detriment (financial and time losses) per service owned, in the scenario with the DMFSD and without the DMFSD.

The personal consumer detriment (financial and time losses) per service owned in the scenario with the DMFSD was calculated by multiplying the magnitude of personal consumer financial service and the time losses by the rate of problems per service owned.

The values for the scenario without the DMFSD were obtained by:

- Calculating the incremental reduction in personal consumer detriment (financial and time losses) between the baseline (2004, 2005, 2006 and 2007)[574] and 2008;
- For each year of the period 2008-2018, add to the personal consumer detriment calculated for the scenario with the DFMSD, the share of the incremental reduction that can be attributed to the DMFSD (using the attribution rates estimated in step 1).

Step 7. Calculate the total personal consumer detriment (financial and time losses) in the scenario with and without the DMFSD.

The total personal consumer detriment (financial and time losses) in the scenario with the DMFSD and without the DMFSD was obtained by multiplying the personal consumer detriment per service owned by the EU population.

Step 8. Calculate the net benefits of the DMFSD in terms of personal consumer detriment (financial and time losses).

The net benefits of the DMFSD in respect of personal consumer financial detriment are the difference between the personal consumer financial detriment in the scenario with the DMFSD and the personal consumer financial detriment in the scenario without the DMFSD.

The net benefits of the DMFSD regarding time losses are the difference between the time losses in the scenario with the DMFSD and the time losses in the scenario without the DMFSD.

Finally, the total net benefits in terms of personal consumer detriment are the sum of the net benefits of the DMFSD for personal consumer financial detriment and the net benefits of the DMFSD for time losses.

[574] The transposition of the Directive took place between late 2004 and 2007.

The following tables present the:

- Reduction of consumer financial detriment with low and high demand per type of product and provision;
- Reduction of monetised time losses with low and high demand per type of product and provision;
- Reduction of the overall consumer personal detriment (financial detriment plus time losses) with low and high demand per type of product and provision;
- Consumer personal detriment in the situation with DMFSD and situation without DMFSD with low and high demand.

Table 206. Benefits of the DMFSD for personal ***consumer financial detriment*** *(NPV@4%, EUR million, 2018 prices) –* ***low demand***[575]

	Pre-contractual	Right of withdrawal	Unsolicited services and communications	Total
Banking products	61.3	65.0	1.6	127.9
Mortgage	6.7	2.7	0.1	9.5
Credit / loans	17.8	15.1	0.8	33.8
Insurance	169.5	75.6	3.0	248.1
Pensions	9.1	5.8	0.1	15.1
Payment services	8.6	5.5	0.2	14.3
Investments	31.1	13.8	4.8	49.7
Total	304.1	183.5	10.8	498.4

Table 207. Benefits of the DMFSD for personal ***consumer financial detriment*** *(NPV@4%, EUR million, 2018 prices) –* ***high demand***[576]

	Pre-contractual	Right of withdrawal	Unsolicited services and communications	Total
Banking products	114.2	121.1	3.1	238.3
Mortgage	12.4	5.0	0.3	17.7
Credit / loans	33.2	28.2	1.5	62.9
Insurance	315.7	140.8	5.7	462.2
Pensions	17.0	10.8	0.3	28.1
Payment services	16.1	10.2	0.4	26.7
Investments	58.0	25.7	8.9	92.5
Total	566.6	341.9	20.0	928.5

[575] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.
[576] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Table 208. Benefits of the DMFSD regarding ***time losses*** *(NPV@4%, EUR million, 2018 prices) –* ***low demand***[577]

	Pre-contractual	Right of withdrawal	Unsolicited services and communications	Total
Banking products	21.1	22.3	0.6	44.0
Mortgage	2.9	1.2	0.1	4.1
Credit / loans	7.8	6.6	0.3	14.7
Insurance	60.0	26.8	1.1	87.9
Pensions	3.3	2.1	0.1	5.5
Payment services	3.2	2.0	0.1	5.3
Investments	11.5	5.1	1.8	18.3
Total	109.7	66.1	3.9	179.7

Table 209. Benefits of the DMFSD regarding ***time losses*** *(NPV@4%, EUR million, 2018 prices) –* ***high demand***[578]

	Pre-contractual	Right of withdrawal	Unsolicited services and communications	Total
Banking products	39.2	41.6	1.1	81.9
Mortgage	5.4	2.2	0.1	7.7
Credit / loans	14.4	12.3	0.6	27.3
Insurance	111.9	49.9	2.0	163.8
Pensions	6.2	4.0	0.1	10.3
Payment services	5.9	3.8	0.2	9.8
Investments	21.4	9.5	3.3	34.1
Total	204.4	123.1	7.3	334.9

[577] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.
[578] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

*Table 210. Present value of the **benefits of the DMFSD** per type of financial service and key provision (EUR million, 2018 prices) – **low demand**[579]*

	Pre-contractual	Right of withdrawal	Unsolicited services and communications	Total
Banking products	82.3	87.4	2.2	171.9
Mortgage	9.6	3.9	0.2	13.6
Credit / loans	25.6	21.7	1.1	48.5
Insurance	229.5	102.4	4.1	336.0
Pensions	12.5	7.9	0.2	20.6
Payment services	11.8	7.5	0.3	19.6
Investments	42.6	18.8	6.5	68.0
Total	413.8	249.6	14.7	678.1

*Table 211. Present value of the **benefits of the DMFSD** per type of financial service and key provision (EUR million, 2018 prices) – **high demand**[580]*

	Pre-contractual	Right of withdrawal	Unsolicited services and communications	Total
Banking products	153.4	162.8	4.1	320.3
Mortgage	17.8	7.2	0.4	25.4
Credit / loans	47.7	40.5	2.1	90.3
Insurance	427.6	190.7	7.7	626.0
Pensions	23.2	14.8	0.4	38.4
Payment services	21.9	14.0	0.6	36.5
Investments	79.4	35.1	12.1	126.6
Total	771.0	465.1	27.4	1263.5

[579] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.
[580] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Table 212. ***Personal consumer detriment*** *in the scenario with and without the DMFSD (EUR million, 2018 prices) –* ***low demand***[581]

	Scenario with DMFSD	Scenario without DMFSD	Difference
1) Pre-contractual information	11,907.6	12,321.4	413.8
2) Right of withdrawal	4,516.1	4,765.7	249.6
3) Unsolicited communications and services	1,783.4	1,798.1	14.7
Total	18,207.1	18,885.2	678.1

Table 213. ***Personal consumer detriment*** *in the scenario with and without the DMFSD (EUR million, 2018 prices) –* ***high demand***[582]

	Scenario with DMFSD	Scenario without DMFSD	Difference
1) Pre-contractual information	22,186.3	22,957.3	771.0
2) Right of withdrawal	8,414.4	8,879.5	465.1
3) Unsolicited communications and services	3,322.8	3,350.2	27.4
Total	33,923.5	35,187.0	1,263.5

[581] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.
[582] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Figure 73. Evolution of the benefits of DMFSD (i.e., reduction of consumer personal detriment) per key provision – Low demand scenario

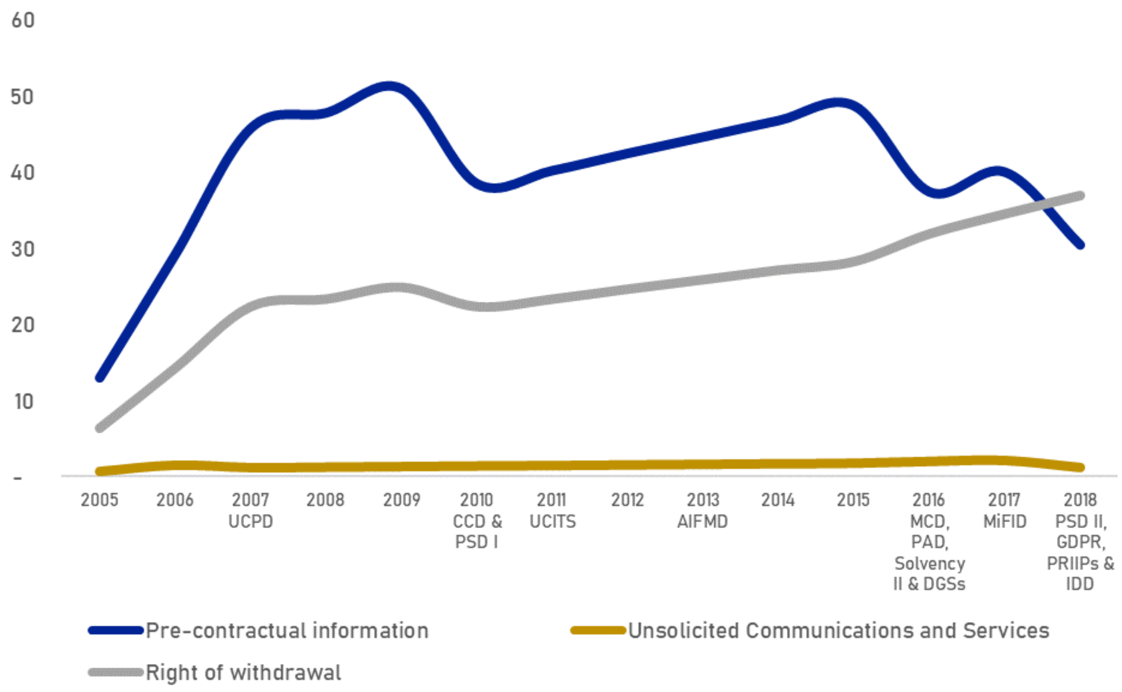


Figure 74. Evolution of the benefits of DMFSD (i.e., reduction of consumer personal detriment) per key provision – High demand scenario

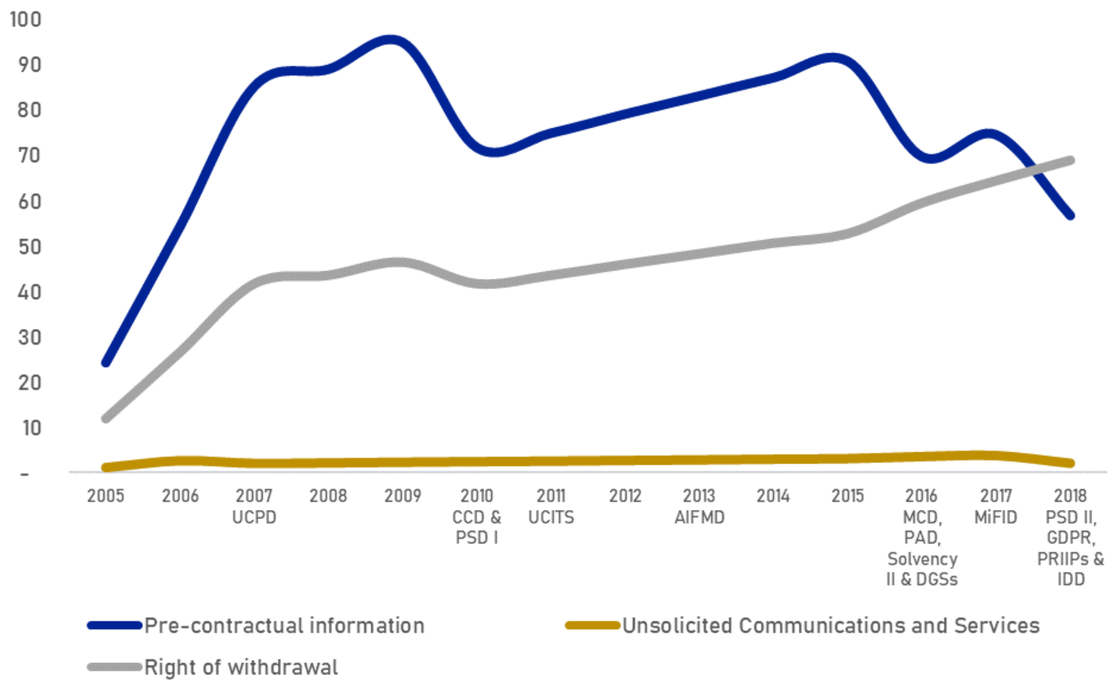


Figure 75. Evolution of the reduction of consumer detriment, 2005-2018 – Low demand scenario

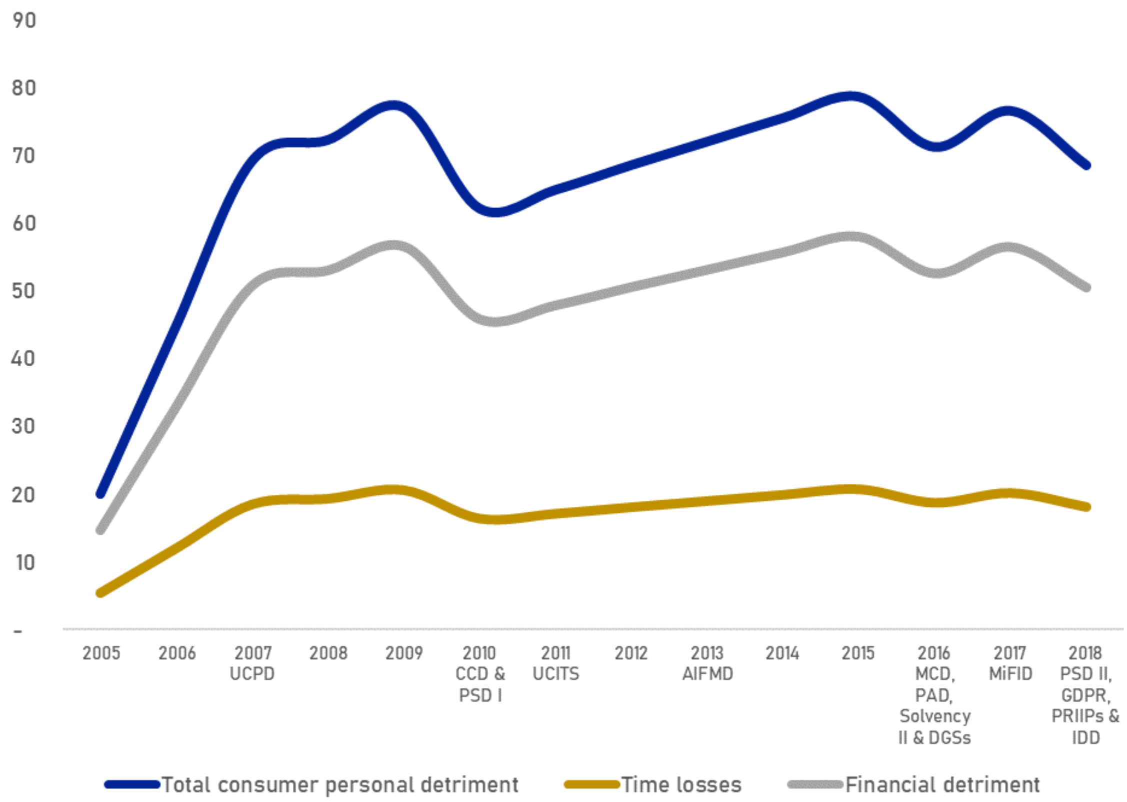
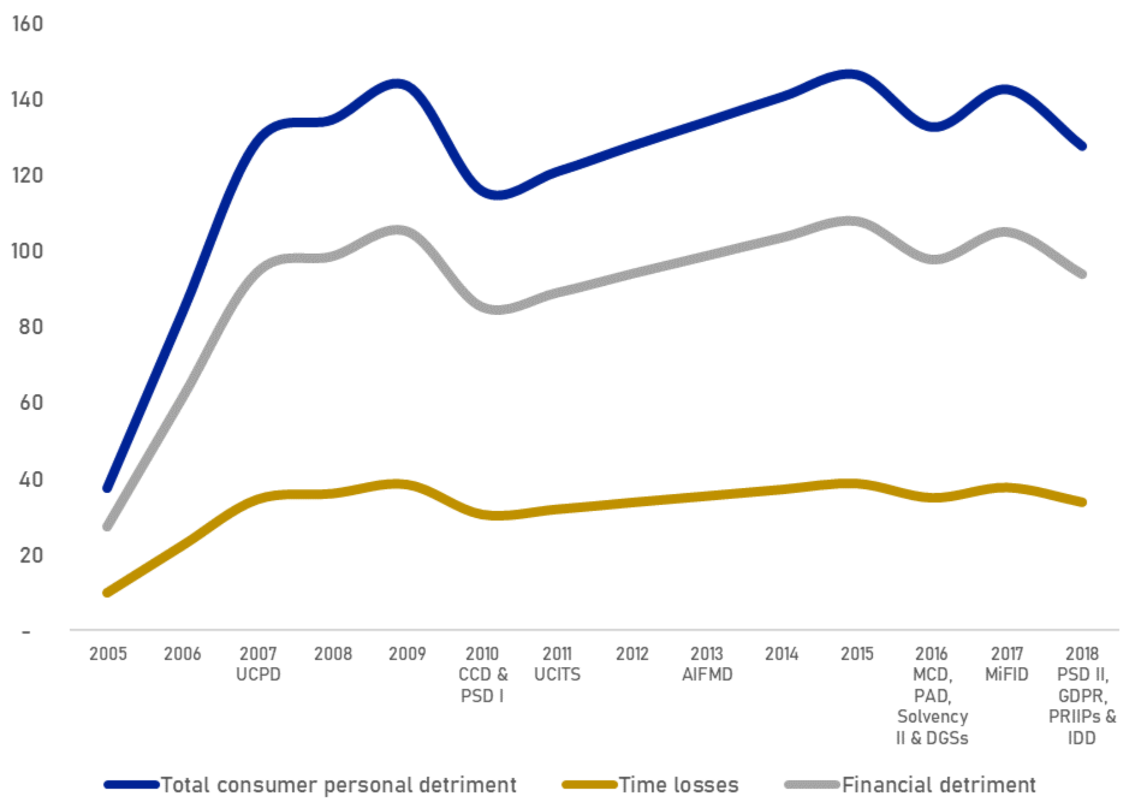


Figure 76. Evolution of the reduction of consumer detriment, 2005-2018 – High demand scenario



In the next two figures we present the evolution of the EU population that has benefited from each key DMFSD provision for the low and high demand scenario.

Figure 77. EU population that benefitted from each key DMFSD provision in the period 2004-2018 – Low demand scenario

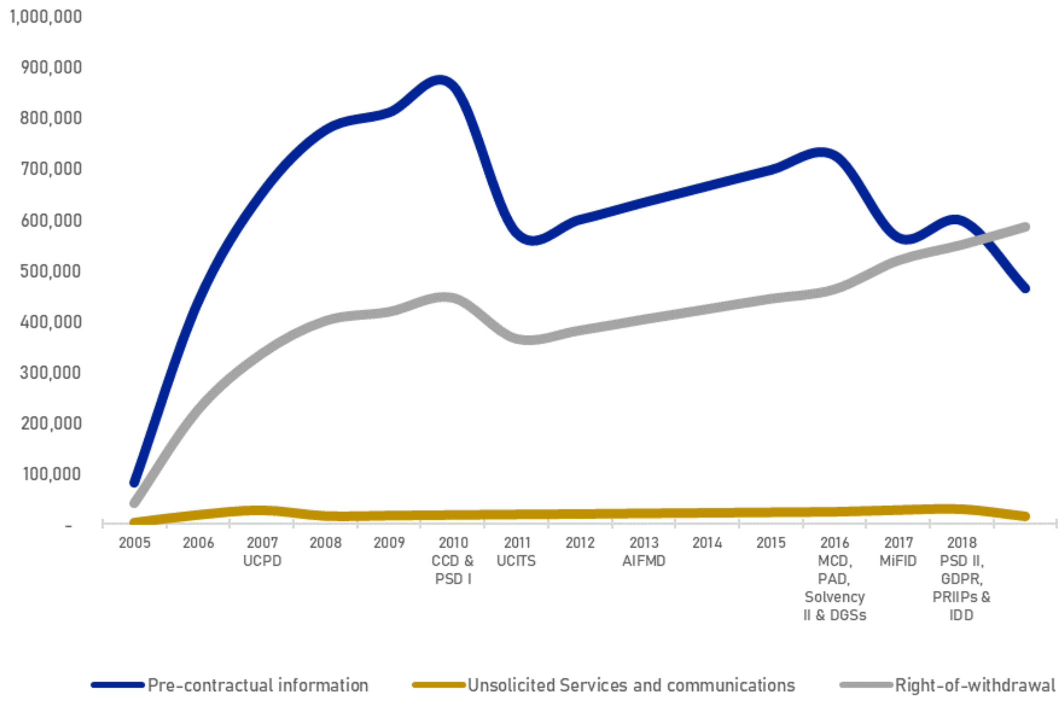
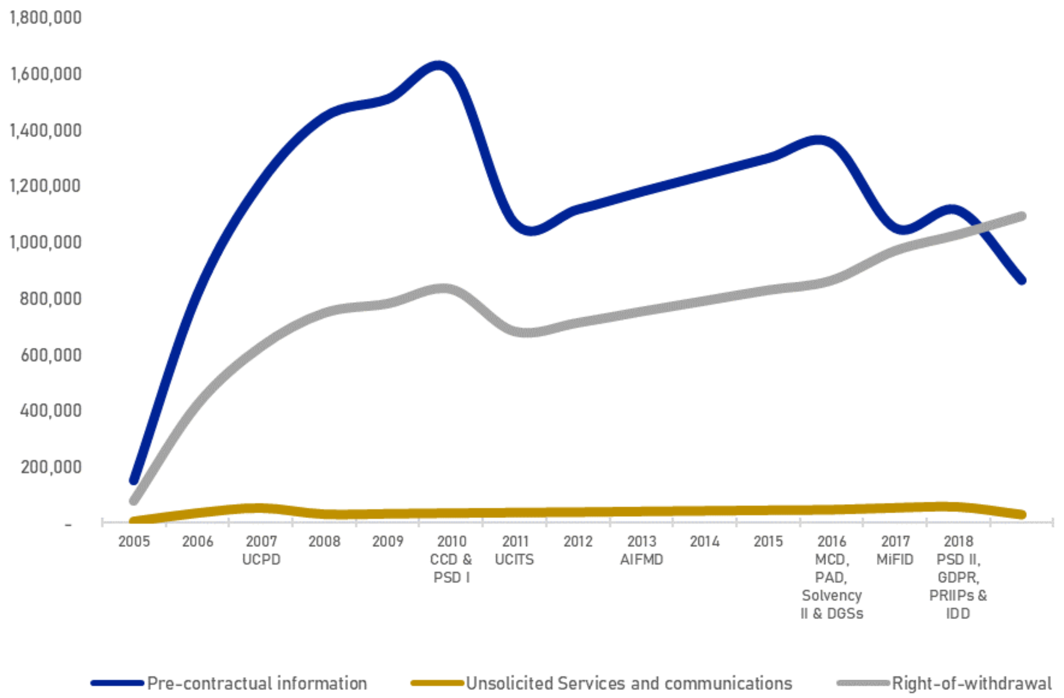


Figure 78. EU population that benefitted from each key DMFSD provision in the period 2004-2018 – High demand scenario



Reduction of consumer structural detriment due to imperfect information

The structural detriment refers to the loss of consumer welfare as a result of a market failure. Following the recommendations of the Europe Economics handbook, the potential impact of the DMFSD in addressing possible failures resulting from imperfect information on quality and price (therefore in reducing structural detriment) was analysed. The impact of the DMFSD could be assessed by analysing its effect on the switching behaviour of consumers.

However, based on the data from the Consumer Market Scoreboard (2010-2017), the switching of providers decreased for most of the products, with the exception of mortgages. As the demand for this product through distance means of communication is very low, it can be concluded that any impact of the DMFSD on consumer structural detriment is negligible.

Costs

The costs of the DMFSD for financial service providers and public administrations relate to compliance, monitoring and enforcement, and can be sub-divided into one-off costs and recurrent costs. The one-off costs relate to costs that providers and public administrations incurred only when the DMFSD was implemented. Recurrent costs are those related to the DMFSD that financial service providers and public administrations incur regularly.

Costs for public administrations

The *one-off costs* to public administrations related to the implementation of the DMFSD derived from the need to transpose the Directive into national law and to implement/adapt of complaint handling/redress systems. The methodology and assumptions to calculate the transposition costs are described in Table 214.

Table 214. Approach to calculating one-off costs for public administrations

One-off cost	Methodology	Assumptions
Transposition	Unit cost = No. of people involved in the task x No. of days per involved person x Average daily wage for the public sector Total cost = Unit cost x 28 Member States	• 3 officials per Member State for 10-20 days per month for 12 months[583] • Average daily wage for the public sector per country (from Eurostat)
Implementation/adaptation of complaint handling/redress systems	Total cost = Unit cost x 28 Member States	• Unit cost public administration EUR 100,000[584]

The *recurrent costs* for public administrations related to the implementation of the DMFSD are those for monitoring the compliance of financial providers with the Directive, enforcing the Directive (e.g. sweeps, investigations) and complaint handling/redress. The methodology and assumptions followed to calculate these costs are summarised in Table 215.

Table 215. Approach to calculating recurrent costs for public administrations

Recurrent cost	Methodology	Assumptions
Monitoring	Unit cost = No. of people involved in the task x No. of days per person x Average daily wage for the public sector Total cost = Unit cost x 28 Member States	• 4 officials per Member State for 4 days per month • Average daily wage for the public sector per country (from Eurostat)
Enforcement	Unit cost = No. of people involved in the task x No. of days per person x Average	• 4 officials per Member State for 2 days per month

[583] Based on Quantification of the economic impacts of EU action to improve fee transparency, comparability and mobility in the Internal Market for personal payment accounts
(adjusted to the DMFSD context based on data from previous studies and expert judgment)
[584] Stakeholders surveys

	daily wage for the public sector Total cost = Unit cost x 28 Member States	• Average daily wage for the public sector per country (from Eurostat)
Complaint handling/redress	Unit cost = No. of people involved in the task x No. of days per person x Average daily wage for the public sector Total cost = Unit cost x 28 Member States	• 2 official per Member State for 4 days per month • Average daily wage for the public sector per country (from Eurostat)

Costs for financial providers

The *one-off costs* to financial providers related to the implementation of the DMFSD were:

- Time spent by legal department to familiarise with new legislative requirements (including time to understand the exemptions, concepts, etc.);
- Cost of updating/adapting internal IT systems to the following key requirements of the Directive:
  - Pre-contractual information requirements;
  - Right of withdrawal requirements;
  - Unsolicited communications and services;
- Internal communications/ initial staff training on the following key requirements of the Directive:
  - Pre-contractual information;
  - Right of withdrawal requirements;
  - Unsolicited communications and services;
  - Other.
- Updating website with required information and functionalities;
- Time spent by legal department to adapt contractual documentation;
- Implementation/adaptation of complaint mechanism.

The methodology and assumptions used to calculate these costs is described in Table 216. It is important to highlight that, like the approach to the quantification of benefits, some one-off costs to financial providers were adjusted in light of what can be attributed to the implementation of the Directive (per key provision) and the level of compliance with the Directive (per key provision).

Table 216. Approach to calculating one-off costs for financial providers

One-off cost	Methodology	Assumptions
Familiarisation with the Directive	Unit cost = No. of people involved in the task x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x number of financial institutions	• 2 staff members per financial institution for 15 to 40 days per staff member[585] • Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions
Cost of updating/adapting IT systems to pre-contractual information requirements	Unit cost = Average cost of updating/adapting one IT system Total cost = Unit cost x number of financial institutions x share of financial institutions that adapted their systems to this requirement	• EUR 5,000-65,000 per institution[586] • Number of financial institutions • Values for attribution and compliance
Cost of updating/adapting IT systems to right of withdrawal requirements	Unit cost = Average cost of updating/adapting one IT system Total cost = Unit cost x number of financial institutions x share of financial institutions that adapted their systems to this requirement	• EUR 5,000-65,000 per institution • Number of financial institutions • Values for attribution and compliance
Cost of updating/adapting IT systems to unsolicited communications and services requirements	Unit cost = Average cost of updating/adapting one IT system Total cost = Unit cost x number of financial institutions x share of financial institutions that adapted their systems to this requirement	• EUR 5,000-65,000 per institution • Number of financial institutions • Values for attribution and compliance
Staff training on pre-contractual information	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x number of financial institutions x share of financial institutions that needed to adapt to this requirement	• Communication/ training takes 1 day • All front office employees (assumed to be 20% of workforce) undergo training • Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions

[585] Estimations done based on interviews with legal experts.
[586] Based on interviews and expert knowledge obtained from past studies. These values were adjusted to the context of the DMFSD (e.g., by allocating costs per provision)

		• Values for attribution and compliance
Staff training on right of withdrawal	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x number of financial institutions x share of financial institutions that needed to adapt to this requirement	• Communication/ training takes 1 days • All front office employees (assumed to be 20% of workforce) undergo training • Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions • Values for attribution and compliance
Staff training on unsolicited communications and services	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x number of financial institutions x share of financial institutions that needed to adapt to this requirement	• Communication/ training takes 0.5 days • All employees involved in marketing (assumed to be 5% of workforce) undergo training • Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions • Values for attribution and compliance
Staff training on other aspects of the DMFSD	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x number of financial institutions x share of financial institutions that needed to adapt to this requirement	• Communication/ training takes 0.25 days • All employees involved in marketing (assumed to be 5% of workforce) undergo training • Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions • Values for attribution and compliance
Updating website	Unit cost = Average cost of updating website Total cost = Unit cost x number of financial institutions x share of financial institutions that adapted their websites	• EUR 10,000-30,000 per institution • Number of financial institutions • Values for attribution and compliance
Updating contractual documentation	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector	• 2 members of legal team • 10 to 20 days per team member

	Total cost = Unit cost x number of financial institutions x share of financial institutions that needed to adapt to this requirement	• Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions • Values for attribution and compliance
Implementation/adaptation of complaint mechanisms	Unit cost = No. of people involved x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x number of financial institutions x share of financial institutions that needed to adapt to this requirement	• 4 members of legal team • 10 to 20 days per team member • Average daily wage for the financial sector per country (from Eurostat) • Number of financial institutions • Values for attribution and compliance

The *recurrent costs* of the financial providers related to the need to comply with the DMFSD depend on their level of compliance with the Directive and their need to adjust their operations to the Directive (which in some cases was not necessary as the financial providers were already operating in line with the key requirements of the Directive). See Table 217 for a description of the approach taken to calculate these costs.

Table 217. Approach to calculating recurrent costs of financial providers

Recurrent cost	Methodology	Assumptions
Compliance with pre-contractual information requirements	Unit cost = No. of people involved in the task x No. of days per person x Average daily wage for the financial sector Total cost = Unit cost x No. requests	• 1 official per request • 1 minute per request • Average daily wage for the financial sector per country (from Eurostat) • Only between one-third and one-quarter of requests are followed by contracts • Values for attribution and compliance
Compliance with right of withdrawal requirements	Unit cost = No. of people involved in the task x No. of days per person x Average daily wage for the public sector Total cost = Unit cost x No. requests for withdrawal	• 1 official per request of withdrawal • 10 minutes per request of withdrawal • Average daily wage for the financial sector per country (from Eurostat) • Requests for withdrawals are 10% to 15% of the number of contracts (depending on the service) • Values for attribution and compliance

The graph below presents the one-off costs and the recurrent costs (for both scenarios – high and low demand) of financial providers.

Figure 79. Overview of the estimated costs of the DMFSD for financial providers (EUR million, prices of 2018)

Total costs for public administrations and financial providers

The tables below present the one-off costs and recurrent costs for public administrations and financial providers that can be attributable to DMFSD, with low demand and high demand.

Figure 80. One off costs and recurrent cost of public authorities and financial providers attributable to the DMFSD – low demand (millions of euros, prices of 2018)[587]

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
One-off costs	**35.4**	**222.2**	**47.8**	**36.3**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**1.1**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**326.2**
Financial providers	30.7	222.2	47.8	36.1	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	321.3
Public Administrators	4.6	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	4.9
Recurrent costs	**2.0**	**21.8**	**29.0**	**32.5**	**32.7**	**32.7**	**27.0**	**26.9**	**26.9**	**27.0**	**27.2**	**27.3**	**20.0**	**19.8**	**15.1**	**283.1**
Financial providers	1.7	20.4	27.3	30.5	30.7	30.8	25.1	25.0	25.0	25.2	25.3	25.3	18.1	18.0	13.2	263.2
Public Administrators	0.3	1.4	1.8	2.0	2.0	2.0	1.9	1.9	1.8	1.8	1.9	2.0	1.9	1.8	1.8	19.9
Total	37.3	244.0	76.8	68.8	32.7	32.7	27.0	26.9	26.9	28.1	27.2	27.3	20.0	19.8	15.1	609.3

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
Financial providers	**32.4**	**242.6**	**75.1**	**66.6**	**30.7**	**30.8**	**25.1**	**25.0**	**25.0**	**26.2**	**25.3**	**25.3**	**18.1**	**18.0**	**13.2**	**584.5**
One-off Costs	30.7	222.2	47.8	36.1	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	321.3
Recurrent Costs	1.7	20.4	27.3	30.5	30.7	30.8	25.1	25.0	25.0	25.2	25.3	25.3	18.1	18.0	13.2	263.2
Public Administrators	**4.9**	**1.4**	**1.8**	**2.3**	**2.0**	**2.0**	**1.9**	**1.9**	**1.8**	**2.0**	**1.9**	**2.0**	**1.9**	**1.8**	**1.8**	**24.8**
One-off Costs	4.6	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	4.9
Recurrent Costs	0.3	1.4	1.8	2.0	2.0	2.0	1.9	1.9	1.8	1.8	1.9	2.0	1.9	1.8	1.8	19.9
Total	37.3	244.0	76.8	68.8	32.7	32.7	27.0	26.9	26.9	28.1	27.2	27.3	20.0	19.8	15.1	609.3

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
Pre-contractual information	**13.4**	**94.5**	**36.9**	**34.6**	**21.6**	**21.7**	**17.1**	**17.1**	**17.1**	**17.6**	**17.3**	**17.3**	**10.8**	**10.7**	**6.3**	**296.5**
One-off costs	12.1	80.1	17.7	13.1	0.0	0.0	0.0	0.0	0.0	0.4	0.0	0.0	0.0	0.0	0.0	117.4
Recurrent costs	1.2	14.4	19.2	21.5	21.6	21.7	17.1	17.1	17.1	17.2	17.3	17.3	10.8	10.7	6.3	179.1
Right of withdrawal	**13.2**	**91.9**	**28.0**	**23.5**	**10.0**	**10.1**	**8.9**	**8.9**	**8.9**	**9.4**	**9.0**	**9.0**	**8.3**	**8.2**	**7.9**	**218.6**
One-off costs	12.6	85.2	19.0	13.5	0.0	0.0	0.0	0.0	0.0	0.5	0.0	0.0	0.0	0.0	0.0	124.5
Recurrent costs	0.6	6.7	8.9	10.0	10.0	10.1	8.9	8.9	8.9	8.9	9.0	9.0	8.3	8.2	7.9	94.1
Unsolicited communications and services	**3.5**	**16.4**	**3.5**	**3.2**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**29.1**
One-off costs	3.4	16.0	3.1	2.7	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	24.1
Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
Other	**7.3**	**41.2**	**8.5**	**7.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.7**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**65.2**
One-off costs	7.2	40.8	8.0	7.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	60.2
Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
Total	**37.3**	**244.0**	**76.8**	**68.8**	**32.7**	**32.7**	**27.0**	**26.9**	**26.9**	**28.1**	**27.2**	**27.3**	**20.0**	**19.8**	**15.1**	**609.3**

[587] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Figure 81. One off costs and recurrent cost of public authorities and financial providers attributable to the DMFSD – high demand (millions of euros, prices of 2018)[588]

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
One-off costs	**35.4**	**222.2**	**47.8**	**36.3**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**1.1**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**326.2**
Financial providers	30.7	222.2	47.8	36.1	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	321.3
Public Administrators	4.6	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	4.9
Recurrent costs	**3.4**	**39.5**	**52.6**	**58.8**	**59.1**	**59.3**	**48.6**	**48.5**	**48.5**	**48.7**	**49.0**	**49.1**	**35.7**	**35.3**	**26.5**	**510.3**
Financial providers	3.2	38.1	50.8	56.8	57.1	57.3	46.7	46.6	46.7	46.9	47.1	47.2	33.8	33.5	24.6	490.4
Public Administrators	0.3	1.4	1.8	2.0	2.0	2.0	1.9	1.9	1.8	1.8	1.9	2.0	1.9	1.8	1.8	19.9
Total	38.8	261.6	100.4	95.1	59.1	59.3	48.6	48.5	48.5	49.8	49.0	49.1	35.7	35.3	26.5	836.5

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
Financial providers	**33.9**	**260.3**	**98.6**	**92.9**	**57.1**	**57.3**	**46.7**	**46.6**	**46.7**	**47.9**	**47.1**	**47.2**	**33.8**	**33.5**	**24.6**	**811.7**
One-off Costs	30.7	222.2	47.8	36.1	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	321.3
Recurrent Costs	3.2	38.1	50.8	56.8	57.1	57.3	46.7	46.6	46.7	46.9	47.1	47.2	33.8	33.5	24.6	490.4
Public Administrators	**4.9**	**1.4**	**1.8**	**2.3**	**2.0**	**2.0**	**1.9**	**1.9**	**1.8**	**2.0**	**1.9**	**2.0**	**1.9**	**1.8**	**1.8**	**24.8**
One-off Costs	4.6	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	4.9
Recurrent Costs	0.3	1.4	1.8	2.0	2.0	2.0	1.9	1.9	1.8	1.8	1.9	2.0	1.9	1.8	1.8	19.9
Total	38.8	261.6	100.4	95.1	59.1	59.3	48.6	48.5	48.5	49.8	49.0	49.1	35.7	35.3	26.5	836.5

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
Pre-contractual information	**14.4**	**106.7**	**53.1**	**52.7**	**39.9**	**40.0**	**31.5**	**31.4**	**31.4**	**32.0**	**31.7**	**31.8**	**19.7**	**19.5**	**11.3**	**446.7**
One-off costs	12.1	80.1	17.7	13.1	0.0	0.0	0.0	0.0	0.0	0.4	0.0	0.0	0.0	0.0	0.0	117.4
Recurrent costs	2.3	26.6	35.4	39.7	39.9	40.0	31.5	31.4	31.4	31.6	31.7	31.8	19.7	19.5	11.3	329.4
Right of withdrawal	**13.7**	**97.4**	**35.3**	**31.7**	**18.3**	**18.3**	**16.2**	**16.1**	**16.1**	**16.7**	**16.3**	**16.3**	**15.0**	**14.9**	**14.2**	**295.5**
One-off costs	12.6	85.2	19.0	13.5	0.0	0.0	0.0	0.0	0.0	0.5	0.0	0.0	0.0	0.0	0.0	124.5
Recurrent costs	1.1	12.2	16.2	18.2	18.3	18.3	16.2	16.1	16.1	16.2	16.3	16.3	15.0	14.9	14.2	171.0
Unsolicited communications and services	**3.5**	**16.4**	**3.5**	**3.2**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**29.1**
One-off costs	3.4	16.0	3.1	2.7	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	24.1
Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
Other	**7.3**	**41.2**	**8.5**	**7.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**0.7**	**0.5**	**0.5**	**0.5**	**0.5**	**0.5**	**65.2**
One-off costs	7.2	40.8	8.0	7.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	60.2
Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
Total	**38.8**	**261.6**	**100.4**	**95.1**	**59.1**	**59.3**	**48.6**	**48.5**	**48.5**	**49.8**	**49.0**	**49.1**	**35.7**	**35.3**	**26.5**	**836.5**

[588] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Net benefits

The net benefits attributable to the DMFSD are equal to the benefits attributable to the DMFSD and the costs (for public administration and financial providers) attributable to the DMFSD (see above). The next figures show the evolution of the net benefits of the DMFSD overall and per key provision with low demand and with high demand.

Figure 82. Overview of net benefits to costs attributable to the DMFSD (2004-2018)

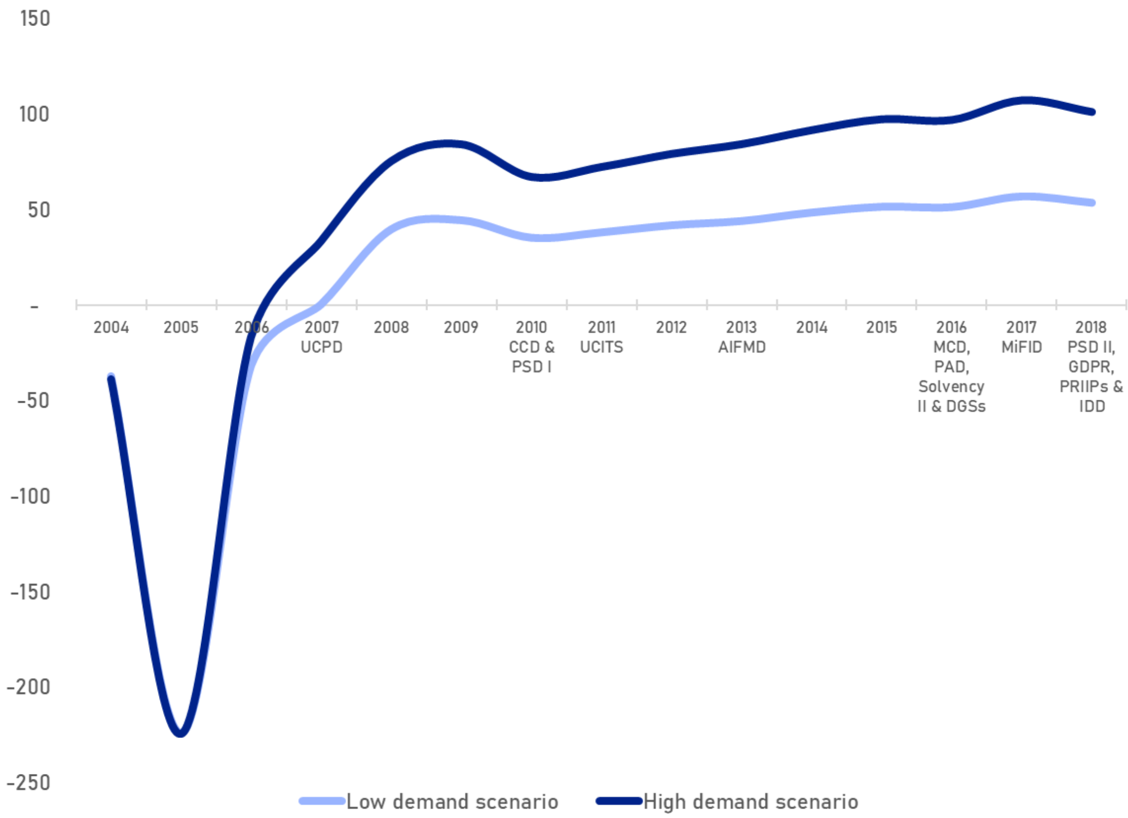


Figure 83. Overview of the net benefits per key provision of the DMFSD (EUR million, 2018 prices) – Low demand scenario

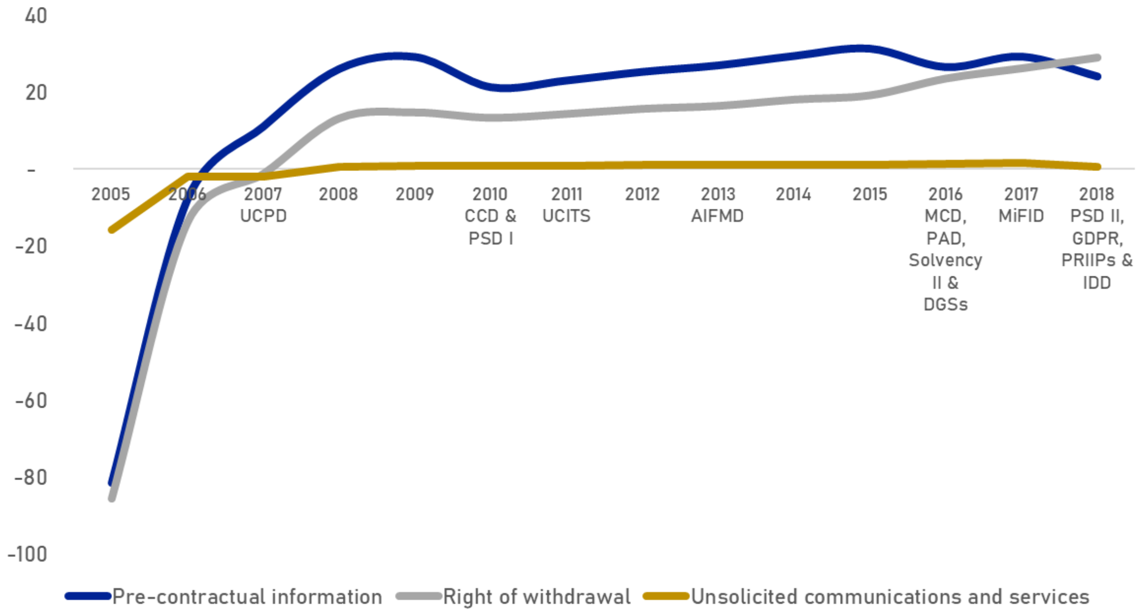


Figure 84. Overview of the net benefits per key provision of the DMFSD (EUR million, 2018 prices) – High demand scenario

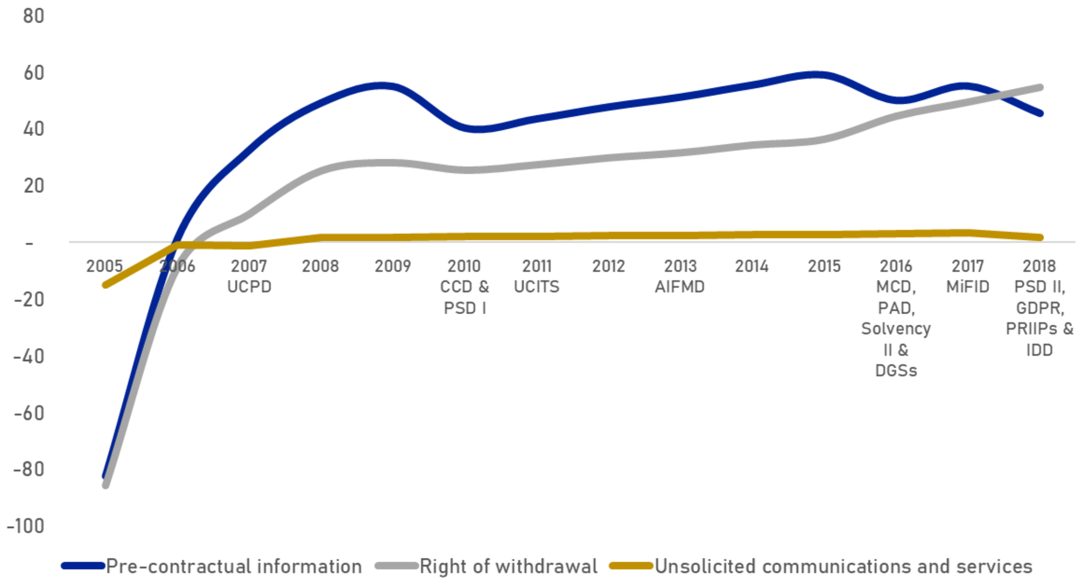


Figure 85. Net benefits attributable to the DMFSD – low demand (millions of euros, prices of 2018)[589]

		2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
Pre-contractual information																	
	One-off costs	12.1	80.1	17.7	13.1	-	-	-	-	-	0.4	-	-	-	-	-	117.4
	Recurrent costs	1.2	14.4	19.2	21.5	21.6	21.7	17.1	17.1	17.1	17.2	17.3	17.3	10.8	10.7	6.3	179.1
	Benefits	-	13.0	29.1	45.7	47.7	50.9	38.4	40.1	42.4	44.6	46.7	48.6	37.4	40.0	30.4	413.8
	Net benefits	**-13.4**	**-81.6**	**-7.8**	**11.1**	**26.1**	**29.2**	**21.3**	**23.1**	**25.3**	**27.0**	**29.5**	**31.4**	**26.5**	**29.3**	**24.1**	**117.4**
Right of withdrawal																	-
	One-off costs	12.6	85.2	19.0	13.5	-	-	-	-	-	0.5	-	-	-	-	-	124.5
	Recurrent costs	0.6	6.7	8.9	10.0	10.0	10.1	8.9	8.9	8.9	8.9	9.0	9.0	8.3	8.2	7.9	94.1
	Benefits	-	6.3	14.2	22.3	23.3	24.9	22.3	23.3	24.6	25.9	27.1	28.2	31.9	34.5	36.9	249.6
	Net benefits	**-13.2**	**-85.6**	**-13.7**	**-1.2**	**13.3**	**14.8**	**13.4**	**14.4**	**15.7**	**16.5**	**18.2**	**19.2**	**23.6**	**26.3**	**29.1**	**31.1**
Unsolicited communications and services																	-
	One-off costs	3.4	16.0	3.1	2.7	-	-	-	-	-	0.1	-	-	-	-	-	24.1
	Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
	Benefits	-	0.6	1.5	1.1	1.2	1.3	1.3	1.4	1.5	1.6	1.6	1.7	1.9	2.1	1.2	14.7
	Net benefits	**-3.5**	**-15.7**	**-2.1**	**-2.1**	**0.7**	**0.8**	**0.9**	**0.9**	**1.0**	**1.0**	**1.2**	**1.2**	**1.5**	**1.6**	**0.7**	**-14.4**
Other																	-
	One-off costs	7.2	40.8	8.0	7.0	-	-	-	-	-	0.2	-	-	-	-	-	60.2
	Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
	Benefits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Net benefits	**-7.3**	**-41.2**	**-8.5**	**-7.5**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-0.7**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-65.2**
Total		**-37.3**	**-224.0**	**-32.0**	**0.3**	**39.5**	**44.3**	**35.1**	**37.9**	**41.6**	**43.9**	**48.3**	**51.3**	**51.1**	**56.7**	**53.4**	**68.8**

[589] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Figure 86. Net benefits attributable to the DMSF – high demand (millions of euros, prices of 2018)[590]

		2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	NPV
Pre-contractual information																	
	One-off costs	12.1	80.1	17.7	13.1	-	-	-	-	-	0.4	-	-	-	-	-	117.4
	Recurrent costs	2.3	26.6	35.4	39.7	39.9	40.0	31.5	31.4	31.4	31.6	31.7	31.8	19.7	19.5	11.3	329.4
	Benefits	-	24.2	54.2	85.1	88.9	94.8	71.6	74.8	79.0	83.0	87.0	90.6	69.6	74.4	56.6	771.0
	Net benefits	**-14.4**	**-82.5**	**1.1**	**32.4**	**49.0**	**54.8**	**40.1**	**43.4**	**47.6**	**51.0**	**55.3**	**58.8**	**49.9**	**55.0**	**45.3**	**324.3**
Right of withdrawal																	-
	One-off costs	12.6	85.2	19.0	13.5	-	-	-	-	-	0.5	-	-	-	-	-	124.5
	Recurrent costs	1.1	12.2	16.2	18.2	18.3	18.3	16.2	16.1	16.1	16.2	16.3	16.3	15.0	14.9	14.2	171.0
	Benefits	-	11.8	26.5	41.6	43.4	46.3	41.6	43.4	45.9	48.2	50.5	52.6	59.4	64.3	68.8	465.1
	Net benefits	**-13.7**	**-85.6**	**-8.8**	**9.9**	**25.2**	**28.0**	**25.4**	**27.3**	**29.7**	**31.5**	**34.2**	**36.3**	**44.4**	**49.4**	**54.6**	**169.6**
Unsolicited communications and services																	-
	One-off costs	3.4	16.0	3.1	2.7	-	-	-	-	-	0.1	-	-	-	-	-	24.1
	Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
	Benefits	-	1.2	2.7	2.1	2.2	2.4	2.5	2.6	2.8	2.9	3.0	3.2	3.6	3.8	2.2	27.4
	Net benefits	**-3.5**	**-15.2**	**-0.8**	**1.1**	**1.7**	**1.9**	**2.0**	**2.1**	**2.3**	**2.4**	**2.6**	**2.7**	**3.1**	**3.4**	**1.7**	**-1.7**
Other																	-
	One-off costs	7.2	40.8	8.0	7.0	-	-	-	-	-	0.2	-	-	-	-	-	60.2
	Recurrent costs	0.1	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	5.0
	Benefits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Net benefits	**-7.3**	**-41.2**	**-8.5**	**-7.5**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-0.7**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-0.5**	**-65.2**
Total		**-38.8**	**-224.4**	**-16.9**	**33.7**	**75.4**	**84.2**	**67.1**	**72.3**	**79.2**	**84.3**	**91.6**	**97.3**	**96.9**	**107.2**	**101.1**	**426.9**

[590] The calculations were based on numbers with 12-digit decimals. For presentation reasons the numbers were rounded. This leads to some minor differences between the presented individual values for each cost/benefit item and the combined values for their sum or difference.

Annex 8 - Legal research – EU and country factsheets

Annex includes the EU factsheet provided below and 28 country factsheets delivered in separate files.

EU Factsheet

The EU factsheet is structure as follows:

- Introduction
- Objectives, scope and definitions
  - EU Product specific legislation
  - EU horizontal legislation
- Provisions on pre-contractual information
- Provisions on right of withdrawal
- Provisions on unsolicited services and communications

Introduction

This EU factsheet analyses the coherence of the Directive 2002/65/EC on Distance Marketing of Consumer Financial Services (DMFSD) with product-specific legislation and horizontal legislation on:

- Objectives, scope and definitions
- Provision on pre-contractual information
- Right of withdrawal
- Unsolicited services and communications

The product-specific and horizontal legislation considered are listed in the table below.

Table 218. EU legislation analysed

	Year of implementation
Product specific legislation	
Consumer Credit Directive (2008/48/EC) (CDD)	2010
Mortgage Credit Directive (2014/17/EU) (MCD)	2016
Payment Accounts Directive (2014/92/EU) (PAD)	2016
Payment Services Directive (2015/2366/EU) (PSD II)	2018
Insurance Distribution Directive (2016/97/EC) (IDD)	2018
Market in Financial Instruments Directive (2014/65/EU) (MiFID)	2017
Undertakings for the collective investment in transferable securities Directive (2009/65/EC) (UCITS)	2011
Prospectus Regulation (2017/1129)	2019
Alternative investment fund managers Directive (2011/61/EU) (AIFMD)	2013
Directive on investor compensation schemes (97/9/EC)	1998
Regulation on packaged retail and insurance-based investment product (EU 1286/2014) (PRIIPs)	2016
Directive on deposit guarantee schemes (2014/49/EU) (DGS)	2016
Pan-European personal pension product (2019/1238/EU) (PEPP)	2020

Horizontal legislation	
Unfair Commercial Practices Directive (2005/29/EC) (UCPD)	2007
Unfair Contract Terms Directive (93/13/EEC) (UCTD)	1994
General Data Protection Regulation (EU 2016/679) (GDPR)	2018
Privacy and Electronic Communications Directive (2002/58/EC) (EPD)	2003
e-commerce Directive (2000/31/EC) (ECD)	2002
Geo-blocking Regulation (EU 2018/302)	2018
Consumer Rights Directive (2011/83/EU) (CRD)	2014

Objectives, scope and definitions

EU Product specific legislation

Legal instrument	Objective	Scope	Definitions
DMFSD	The objective of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning the distance marketing of consumer financial services.	The Directive covers **all financial services**, including sales of credit cards, investment funds, insurance and personal pension plans to consumers by distance-selling channels such as telephone, fax and the internet. It applies to the **initial agreement or when the first operation of the agreement is performed,** depending on the cases explicitly laid down in Article 1.	The Directive provides definitions for: • Distance contract; • Financial service; • Supplier; • Consumer[591]; • Means of distance communication • Durable medium; • Operator or supplier of a means of distance communication.
CCD	The Directive aims at harmonizing certain aspects of the laws, regulations and administrative provisions of the Member States concerning agreements **covering credit for consumers**.	This Directive applies to **credit agreements** with some exceptions explicitly mentioned in Article 2(2) (e.g. credit agreements covering the granting of credit secured by real estate)[592].	The definitions of "Consumer" under Article 3(a) and "Durable Medium" under Article 3(m) (CCD) are in line with the ones laid down in the DMFSD. To qualify a natural or legal person as a **creditor**, CCD requires that the subject grants or promises to grant credit in the course of his trade, business or profession. Article 3 of the CCD provides definitions for *Consumer*; *creditor*; credit; agreement; overdraft; facility; overrunning; credit; intermediary; total cost of the credit to the consumer; total amount payable by the consumer; annual percentage rate of charge; borrowing rate; fixed borrowing rate; total

[591] 'Consumer' means any **natural** person who, in distance contracts covered by this Directive, is acting for purposes which are **outside his trade, business or profession**

[592] See Article 2(2), 2008/48/EC, for further details.

			amount of credit; *durable medium*; linked credit; agreement.
MCD	The objective of the MCD is to ensure that consumers entering into credit agreements relating to immovable property benefit from a **high level of protection**. This Directive lays down a common framework concerning agreements **covering credit for consumers secured by a mortgage or otherwise relating to residential immovable property.**	This Directive applies to: Credit agreements which are secured by a **mortgage** or by another security used on residential immovable property or secured by a right related to residential immovable property; Credit agreements the purpose of which is to acquire or **retain property rights in land** or an existing or projected **building**.	The definition of "Consumer" under Article 4(1) and "Durable Medium" under Article 4(18) are in line with the ones laid down in the DMFSD. To qualify a natural or legal person as a *creditor*, MCD requires that the subject grants or promises to grant credit in the course of his trade, business or profession. Article 4 of the MCD provides definitions for Consumer; Creditor; Credit agreement; Ancillary service; Credit intermediary; Group; Tied credit intermediary; Appointed representative; Credit institution; Non-credit institution; Staff; Total amount of credit; Total cost of the credit to the consumer; Total amount payable by the consumer; Annual percentage rate of charge; Borrowing rate; Creditworthiness assessment; Durable medium; Home Member State; Host Member State; Advisory services; Competent authority; Bridging loan; contingent; liability or guarantee; Shared equity credit agreement; Tying practice; Bundling practice; Foreign currency loan.
PAD	The objective of the Payment Accounts Directive is to facilitate the transparency and comparability of fees charged to consumers related to: payment accounts held within the Union payment account switching within a Member State	This Directive applies to **payment accounts** through which consumers are able at least to: Place funds in a payment account; Withdraw cash from a payment account;	The definition of "Consumer" under Article 2(1) (2014/92/EU) and "Durable Medium" under Article 2(17) are in line with the ones laid down in the DMFSD. Article 2 of the Payment Accounts Directive provides definitions for Consumer; legally resident in the Union; payment account;

	and access to payment accounts with basic features. This Directive also lays down rules aimed at facilitating cross-border payment account-opening for consumers, while defining a general framework for conditions according to which Member States are required to guarantee a right for consumers to open and use payment accounts with basic features in the Union.	Execute and receive payment transactions, including credit transfers, to and from a third party.	payment service; payment transaction; services linked to account; payment service provider; credit institution; payment instrument; transferring payment service provider; receiving payment service provider; payment order; payer; payee; fees; credit interest rate; durable medium; switching; direct debit; credit transfer; standing order; funds; framework contract; business day; overdraft facility; overrunning; competent authority.
PSD II[593]	The objective of the Payment Services Directive is the further integration of an internal market in payment services and seeks to improve the existing EU rules for electronic payments. Specifically, the Directive puts in place comprehensive rules for **payment services** and in accordance with which Member States shall distinguish between several categories of payment service provider (e.g. credit institutions; electronic money institutions; payment institutions) while foreseeing rules. The Directive also establishes a set of rules concerning:	This Directive applies to **payment services** provided within the Union. Article 4(7) of the Directive defines the payment services as *funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions*.	The definition of "Consumer" under Article 4(20) (2015/2366/EU) is in line with the one laid down in Article 2(d) of the DMFSD. The Payment Services Directive while defining the "durable medium", instead of referring to the consumer as the person that is the intended recipient, refers to the *payment service user,* consequently broadening the interested parties. Specifically, the *payment service user* is defined as a natural or legal person that makes use of a payment service in the capacity of payer, payee, or both. Similarly, while defining "means of distance communication" this Directive, refers to *payment service provide*r and *payment service*

[593] (55) The relationship between the pre-contractual information requirements laid down in this Directive and Directive 2002/65/EC should, in particular, be clarified. (59) provides a compatibility clause: *This Directive should provide for a right for consumers to receive relevant information free of charge before being bound by any payment service contract. Consumers should also be able to request prior information as well as the framework contract, on paper, free of charge at any time during the contractual relationship, so as to enable them both to compare the services and conditions offered by payment service providers and in the case of any dispute, to verify their contractual rights and obligations, thereby maintaining a high level of consumer protection. Those provisions should be compatible with Directive 2002/65/EC. The specific provisions on free information in this Directive should not have the effect of allowing charges to be imposed for the provision of information to consumers under other applicable directives.*

	(a) the transparency of conditions and information requirements for payment services; and (b) the respective rights and obligations of payment service users and payment service providers in relation to the provision of payment services as a regular occupation or business activity.		*user* as interested parties, leaving intact the main definition which is in line with the one provided in the DMFSD. Article 4 of the Directive provides definitions for: home Member State; host Member State; payment service; payment institution; payment transaction; remote payment transaction; payment system payer; payee; payment service user; payment service provider; payment account; payment order; payment instrument; payment initiation; service; account information service; account servicing payment service provider; payment initiation service provider; account information service provider; consumer; framework contract; money remittance; direct debit; credit transfer; funds; value date; reference exchange rate; reference interest rate; authentication; strong customer authentication; personalised security credentials; sensitive payment data; unique identifier; **means of distance communication**[594]; durable medium; microenterprise; business day; agent; branch; group; electronic communications network; electronic communications service; digital content; acquiring of payment transactions; issuing of payment instruments; own funds; payment brand; co-badging.
IDD	The objective of the Insurance Distribution Directive is to harmonize the national provisions concerning	This Directive applies to any **natural or legal person** who is established in a Member State or who wishes to be	The definition of "Durable Medium" under Article 2(18) is in line with the one laid down in Article 2(f) of the DMFSD.

[594] Article 4(34) means of distance communication: a method which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract.

	insurance and **reinsurance distribution** in the Union.	established there in order to take up and **pursue the distribution of insurance and reinsurance products**.	Article 2 of the IDD provides definitions for: insurance distribution; reinsurance distribution; insurance intermediary; ancillary insurance intermediary; reinsurance intermediary; insurance undertaking; reinsurance undertaking; insurance distributor; remuneration; home Member State; host Member State; branch; close links; primary place of business; advice; large risks; insurance-based investment product; *durable medium*.
MiFID	The Directive aims at creating an integrated and transparent financial market in which investors are effectively protected and the efficiency and integrity of the overall market are safeguarded. The objective is to create a legal framework that regulates trading activities on financial markets, while harmonizing national provisions concerning the areas referred to.	This Directive applies to investment firms, market operators, data reporting services providers, and third-country firms providing investment services or performing investment activities through the establishment of a branch in the Union.	The MiFID while defining the "durable medium", instead of referring to the consumer as the person that is the intended recipient, refers to the client. Specifically, the Directive makes a difference between clients, professional clients and retail clients. Specifically, the "client" is defined as any natural or legal person to whom an investment firm provides investment or ancillary services. The professional client is qualified as a client meeting the criteria laid down in Annex II, such as Credit institutions, Investment firms; Insurance companies etc. While the "retail client" is a client which falls outside the definition of professional client. Moreover, the Directive provides concrete examples of durable medium such as mails, faxes, emails, documentation of client orders made at meetings. Article 4 of the MiFID provides definitions for: investment firm; investment services and activities; ancillary services; investment advice; execution of orders on behalf of clients;

			dealing on own account; market maker; portfolio management; **client**[595]; **professional client**; **retail client**; SME growth market; small and medium-sized enterprises; limit order; financial instrument; C6 energy derivative contracts; money-market instruments; market operator; multilateral system; systematic internaliser; regulated market; multilateral trading facility; organized trading facility; trading venue; liquid market; competent authority; credit institution; UCITS management company; tied agent; branch; qualifying holding; parent undertaking; subsidiary; group; close links; management body; senior management; matched principal trading; algorithmic trading; high-frequency algorithmic trading technique; direct electronic access; cross-selling practice; structured deposit; transferable securities; depositary receipts; exchange-traded fund; certificates; structured finance products; derivatives; commodity derivatives; CCP; approved publication arrangement; consolidated tape provider; approved reporting mechanism; home Member State; host Member State; third-country firm; wholesale energy product; agricultural commodity derivatives; sovereign issuer; sovereign debt; durable medium.
UCITS	The Directive lays down uniform rules on **investment funds**, allowing the cross-border offer of investment funds regulated at EU level and it sets out the EU's main regulations governing UCITS.	This Directive applies to undertakings for **collective investment in transferable securities** (UCITS) established within the territories of the Member States.	The UCITS while defining the "durable medium", instead of referring to the consumer as the person that is the intended recipient, refers to the investor. Article 2 of the Directive provides definitions for: Depositary; management company; management company's home Member State;

[595] 'client' means any natural or **legal** person to whom an investment firm provides investment or ancillary services.

			management company's host Member State; UCITS home Member State; UCITS host Member State; branch; competent authorities; close links; qualifying holding; initial capital; own funds; durable medium; transferable securities; money market instruments; mergers; cross-border merger; domestic merger.
Prospectus Regulation	The main objective of this Regulation is to enhance investor protection and market efficiency, while establishing the Capital Markets Union. In this sense, the Prospectus Regulation lays down requirements for the **drawing up, approval and distribution of the prospectus** to be published when securities are offered to the public or admitted to trading on a regulated market situated or operating within a Member State.	The Directive puts in place comprehensive rules for **companies, especially SMEs,** when drawing up, securing approval and distributing the prospectus they publish when offering securities to the public[596].	The definition of "Durable Medium" under Article 2(z) is in line with the one laid down in Article 2(f) of the DMFSD. Article 2 of the Prospectus Regulation provides definitions for: Securities; equity securities; non-equity securities; offer of securities to the public; qualified investors; small and medium-sized enterprises; credit institution; issuer; regulated market; advertisement; regulated information; home Member State; host Member State; competent authority; collective investment undertaking other than the closed-end type; units of a collective investment undertaking; approval; base prospectus; working days; multilateral trading facility; organized trading facility; SME growth market; third country issuer; offer period; durable medium.
AIFMD	The objective of this Directive is to ensure a high level of investor protection by laying down a common framework for the authorisation and supervision of AIFMs. Specifically, the Directive lays down the rules for the authorisation, ongoing operation and	The Directive applies to: • **EU AIFMs** which manage one or more AIFs irrespective of whether such AIFs are EU AIFs or non-EU AIFs;	There are not comparable definitions between DMFSD and AIFMD. Article 4 of the AIFMD provides definitions for: AIFs; AIFMs; branch; carried interest; close links; competent authorities; competent authorities; competent authorities of the EU AIF; control; established; EU AIF; EU AIFM;

[596] The exemptions from the obligation to publish a prospectus are set out in paragraphs 4 and 5.

	transparency of the managers of **alternative investment funds** (AIFMs) which manage and/or market alternative investment funds (AIFs) in the Union.	• **non-EU AIFMs** which manage one or more **EU AIFs**; • **non-EU AIFMs** which market one or more AIFs in the Union irrespective of whether such AIFs are **EU AIFs or non-EU AIFs**.[597]	feeder AIF; financial instrument; holding company; home Member State of the AIF; home Member State of the AIFM; host Member State of the AIFM; initial capital; issuer; legal representative; leverage; managing AIFs; marketing; master AIF; Member State of reference; non-EU AIF; non-EU AIFM; non-listed company; own funds; parent undertaking; prime broker; professional investor[598]; qualifying holding; employees; representatives; retail investor[599]; subsidiary; supervisory; authorities; supervisory authorities; securitisation special purpose entities; UCITS.
Directive on investor compensation schemes	The Directive lays down certain basic requirements for national investor compensation schemes in order to provide a harmonised minimum level of **investor protection across the EU**. The main objective is to protect investors against the risk of losses in the event of an investment firm's inability to repay money or return assets held on their behalf.	The Directive applies to **national investors**. The directive requires European Union (EU) countries to set up one or more investor compensation schemes. All investment firms supplying investment services must belong to such a scheme (credit institutions may be exempted provided that they already belong to a scheme which guarantees protection at least equivalent to that provided under a	There are not comparable definitions between DMFSD and the Directive on Investor compensation schemes. Article 1 of the Directive provides definitions for: investment firm; investment business; instruments; investor[600]; branch; joint investment business; competent authorities.

[597] The directive lists a number of entities to which it does not apply, including: holding companies (as defined in the directive); management of pension funds; employee participation or savings schemes; supranational institutions; national central banks; insurance contracts. See Article 2(2) for further details.
[598] 'professional investor' means an investor which is considered to be a **professional client** or may, on request, be treated as a professional client within the meaning of 'professional investor' means an investor which is considered to be a professional client or may, on request, be treated as a professional client within the meaning of Annex II to Directive 2004/39/EC.
[599] 'retail investor' means an investor who is not a professional investor.
[600] 'investor' means any person who has entrusted money or instruments to an investment firm in connection with investment business.

		compensation scheme and that they fulfil certain specific conditions).	
PRIIPs	The objectives of this Regulation, is to enhance retail investor protection and improve retail investor confidence in PRIIPs, including where those products are sold cross-border. Specifically, this Regulation lays down uniform rules on the format and content of the **key information document** to be drawn up by PRIIP manufacturers and on the provision of the key information document to retail investors in order to enable retail investors to understand and compare the key features and risks of the PRIIP.	The Regulation applies to PRIIP manufacturers and persons advising on, or selling, PRIIPs.	The PRIIPs while defining the "durable medium", instead of referring to the consumer as the person that is the intended recipient, refers to the investor. However, the PRIIPs does not specifies the definition of *investor* but does specify the *retail investor*'s one. Specifically, a retail investor is: (a) a client who is not a professional client; (b) a customer within the meaning of Directive 2002/92/EC, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of Directive 2014/65/EU[601]. Article 4 provides definitions for: packaged retail investment product; insurance-based investment product; packaged retail and insurance-based investment product; packaged retail and insurance-based investment product manufacturer; person selling a PRIIP; retail investor; durable medium; competent authorities.
DGS	The objective of this Directive is the harmonization of rules concerning the functioning of DGSs. Specifically, the Directive lays down rules and procedures relating to the establishment and the correct functioning of deposit guarantee schemes (**DGSs**). The aim is to protect depositors of all credit institutions, as	This Directive applies to: • Statutory DGSs; • Contractual DGSs that are officially recognized as DGSs; • Institutional protection schemes that are officially recognized as DGSs;	There are not comparable definitions between DMFSD and DGS Article 2 provides definitions for: guarantee schemes; institutional protection schemes; deposit; eligible deposits; covered deposits; depositor; joint account; unavailable deposit; credit institution; branch; target level; available financial means; payment commitments; low-risk assets; home Member

[601] 'professional client' means a client meeting the criteria laid down in Annex II such as Credit institutions, Investment firms, Insurance companies, Locals, and Other institutional investors.

	well as to safeguard the stability of the European Union (EU) banking system.	• Credit institutions affiliated to the schemes referred to in points (1), (2) or (3).	State; host Member State; competent authority; designated authority.
PEPP	The Regulation on a PEPP lays down uniform rules on the authorization, manufacturing, distribution and supervision of **personal pension products** that are distributed in the Union under the designation "pan-European Personal Pension product". These rules aim to give savers more choice and provide them with more competitive personal pension products when saving for retirement while enjoying durable consumer protection.	PEPPs could be offered across the EU by a broad range of financial providers such as insurance companies, asset managers, banks, certain investment firms and certain occupational pension funds.	The definition of "Durable Medium" under Article 2(17) is in line with the one laid down in Article 2(f) of the DMFSD. Article 2 provides definitions for: personal pension product; pan-European Personal Pension Product (PEPP); PEPP saver; PEPP contract; PEPP account; PEPP consumer; PEPP beneficiary; PEPP distribution; PEPP retirement benefits; PEPP benefits; accumulation phase; decumulation phase; annuity; drawdown payments; PEPP provider ; PEPP distributor ; durable medium; competent authorities; home Member State of the PEPP provider; home Member State of the PEPP distributor; host Member State of the PEPP provider; sub-account; capital; financial instruments; depositary; Basic PEPP; default; risk mitigation techniques; biometric risks; switching providers; partnership; environmental, social and governance factors.

EU horizontal legislation

Legal instrument	Objective	Scope	Definitions
DMFSD	The object of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning the distance marketing of consumer financial services.	The Directive covers all financial services, including sales of credit cards, investment funds, insurance and personal pension plans to consumers by distance-selling channels such as telephone, fax and the internet. It applies to **initial agreement or when the first operation of the agreement is performed** depending on the cases explicitly laid down in Article 1.	The Directive provides a definition for: • Distance contract; • Financial service; • Supplier; • Consumer; • Means of distance communication • Durable medium; • Operator or supplier of a means of distance communication.
UCPD[602]	The Directive aims at contributing to the proper functioning of the internal market and achieving a high level of consumer protection by approximating the laws, regulations and administrative provisions of the Member States on **unfair commercial practices harming consumers' economic interests**.	This Directive applies to **unfair business-to-consumer commercial practices** before, during and after a commercial transaction in relation to a product.	The definition of "Consumer" under Article 2 (a) (UCPD) is in line with the one laid down in Article 2(d) of the DMFSD. Article 2 provides definitions for: **trader**; product; business-to-consumer practices; to materially distort the economic behaviour of consumers; code of conduct; code owner; professional diligence; invitation to purchase; undue influence; transactional decision; regulated profession.

[602] In relation to 'financial services', as defined in Directive 2002/65/EC, and immovable property, Member States may impose requirements which are more restrictive or prescriptive than this Directive in the field which it approximates. It is necessary to ensure that the relationship between this Directive and […] Directive 2002/65/EC concerning the distance marketing of consumer financial services. This Directive accordingly applies only in so far as there are no specific Community law provisions regulating specific aspects unfair commercial practices. This Directive consequently complements the Community acquis, which is applicable to commercial practices harming consumers' economic interests.

Legal instrument	Objective	Scope	Definitions
UCTD[603]	The Directive lays down rules aimed at approximating laws, regulations and administrative provisions of the Member States relating to **unfair terms in contracts** concluded between a seller or **supplier** and a **consumer**.	The rules contained in the Directive should apply to **all contracts concluded between sellers or suppliers and consumers**.[604]	The definition of "Consumer" under Article 2(b) (UCTD) is in line with the one laid down in Article 2(d) of the DMFSD. Article 2(c) provides definitions for "seller or supplier": any natural or legal person who, in contracts covered by this Directive, is acting for purposes relating to his trade, business or profession, whether publicly owned or privately owned. The DMFSD in its definition of "supplier" also refers to "private and public" entities, and to "contractual provider of service subject to distance contract".
GDPR	The objective of the General Data Protection is to protect the fundamental rights and freedoms of natural persons and specifically, their right to **the protection of personal data**. This Regulation aims also at ensuring the free movement of personal data within the Union, and an equivalent level of protection of natural persons and the free flow of personal data throughout the Union.	Regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system[605].	There are not comparable definitions between DMFSD and the Regulation 2016/679. Article 2 provides definitions for: personal data; processing; restriction of processing; profiling; pseudonymization; filing system; **controller**; processor; **recipient**; third party; consent; personal data breach; genetic data; biometric data; data concerning health; main establishment; representative; enterprise; group of undertakings; supervisory authority; supervisory authority concerned; cross-border processing; relevant and reasoned objection;

[603] The Unfair Contract Terms Directive (93/13/EEC) protects consumers against unfair standard contract terms imposed by traders. It applies to all kinds of contracts on the purchase of goods and services, for instance online or off-line-purchases of consumer goods, gym subscriptions or contracts on financial services, such as loans.

[604] Inter alia contracts relating to employment, contracts relating to succession rights, contracts relating to rights under family law and contracts relating to the incorporation and organization of companies or partnership agreements are excluded from this Directive.

[605] See Article 2(2) for the Exemptions.

Legal instrument	Objective	Scope	Definitions
			information society service; international organization.
EPD	The Directive harmonizes the provisions of the Member States required to ensure an **equivalent level of protection** of fundamental rights and freedoms, and in particular the **right to privacy**, with respect to the processing of personal data in the electronic communication sector and to ensure the free movement of such data and of electronic communication equipment and services in the Community.	This Directive shall apply to the processing of personal data in connection with the provision of publicly available electronic communications services in public communications networks in the Community.	There are no comparable definitions between the DMFSD and the e-Privacy Directive. Article 2 provides definitions for: User; traffic data; location data; communication; call; consent; value added service; electronic mail.
ECD[606]	This Directive seeks to contribute to the proper functioning of the internal market by ensuring the free movement of information society services between the Member States. It establishes standard rules in the EU on various issues related to **electronic commerce**.	The Directive approximates certain national provisions on information society services relating to the internal market, the establishment of service providers, commercial communications, electronic contracts, the liability of intermediaries, codes of conduct, out-of-court dispute settlements, court actions and cooperation between Member States607.	The definition of "Consumer" under Article 2(e) (ECD) is in line with the one laid down in Article 2(d) of the DMFSD. Article 2 provides definitions for: information society services; **service provider**; established service provider; **recipient of the service**; consumer; commercial communication; regulated profession; coordinated field.

[606] This Directive, together with the future Directive of the European Parliament and of the Council concerning the distance marketing of consumer financial services, contributes to the creating of a legal framework for the on-line provision of financial services; this Directive does not pre-empt future initiatives in the area of financial services in particular with regard to the harmonisation of rules of conduct in this field; the possibility for Member States, established in this Directive, under certain circumstances of restricting the freedom to provide information society services in order to protect consumers also covers measures in the area of financial services in particular measures aiming at protecting investors.
[607] See Article 1(5) for the Exemptions.

Legal instrument	Objective	Scope	Definitions
Geo-blocking Regulation	The Regulation seeks to contribute to the proper functioning of the internal market by **preventing unjustified geo-blocking** and other forms of **discrimination** based, directly or indirectly, on the customers' nationality, place of residence or place of establishment.	The Regulation applies in principle to both **business-to-consumer (B2C)** and to **business-to-business (B2B) transactions**. However, it does **not** apply to: purely internal situations in EU countries; other services such as financial, audio-visual, transport, healthcare and social services, in line with the scope of the EU's Services Directive; copyright-protected content services.	The definition of "Consumer" under Article 2(12) (2018/302) is in line with the one laid down in Article 2(d) of the DMFSD. Article 2 provides definitions for: electronically supplied services; interchange fee; card-based payment instrument; payment brand; payment transaction; payment service; **payment service provider**; payment account; payment instrument; direct debit; credit transfer; consumer; customer[608]; general conditions of access; goods; online interface; service; **trader**.
CRD	The Directive seeks, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by approximating certain aspects of the laws, regulations and administrative provisions of the Member States concerning **contracts concluded between consumers and traders**.	The Directive applies to **any contract concluded between a trader and a consumer**. It shall also apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis[609], while it does not apply for financial services.	The definitions of "Consumer", "distance contract" and "Financial Service" are in line with the ones laid down in Article 2 of the DMFSD. The definition of "durable medium" provided by CCD, while being in line with the DMFSD's provision, has as persons for whom this scheme is intended both the consumer and the trader. The Directive, concerning ***distance contracts***, also clarifies that the definition provided covers situations where the consumer visits the business premises merely for the purpose of

[608] Article 12(13) also defines 'customer' as *who is a national of, or has his or her place of residence in, a Member State, or an undertaking which has its place of establishment in a Member State, and receives a service or purchases a good, or seeks to do so, within the Union, for the sole purpose of end use*;
[609] See Article 3(3) for the Exemptions.

Legal instrument	Objective	Scope	Definitions
			gathering information about the goods or services and subsequently negotiates and concludes the contract at a distance. By contrast, a contract which is negotiated **at the business premises** of the trader and **finally concluded by means of distance communication should not be considered a distance contract**. Neither should a contract initiated by means of distance communication, but finally concluded at the business premises of the trader be considered a distance contract. Similarly, the concept of distance contract should not include reservations made by a consumer through a means of distance communications to request the provision of a service from a professional. Article 2 provides definitions for: trader; goods; goods made to the consumer's specifications; sales contract; service contract; **distance contract**; off-premises contract; business premises; **durable medium**; digital content[610]; **financial service**; public auction; commercial guarantee; ancillary contract.

[610] Digital content means data which are produced and supplied in digital form, such as computer programs, applications, games, music, videos or texts, irrespective of whether they are accessed through downloading or streaming, from a tangible medium or through any other means. Contracts for the supply of digital content should fall within the scope of this Directive. If digital content is supplied on a tangible medium, such as a CD or a DVD, it should be considered as goods within the meaning of this Directive.

Provisions on pre-contractual information

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
CCD	Credit	Yes Articles 5, 6, 7 and Annex II CCD	CCD is generally in line with DMFSD. It foresees a very detailed list of information to be provided in the pre-contractual phase (within the Standard European Consumer Credit Information, SECCI). The SECCI is deemed to fulfil the requirements of Article 3(1) and 2 of the DMFSD; In the pre-contractual stage CCD only foresees an obligation to provide information on the existence or absence of a right of withdrawal. Information on the conditions and requirements to exercise the right of withdrawal only have to be included in the credit agreement (Article 10 CCD) unless the pre-contractual information refers to distance marketing of financial cases in which case the SECCI requires to provide all the information to exercise the right of withdrawal; Similarly, CCD does not include the obligation to provide pre-contractual information on redress (as opposed to Article 3(1)(4) DMFSD). This information only needs to be provided as part of the credit agreement (Article 10 CCD) unless related to distance marketing of financial services where the SECCI requires to provide pre-contractual information on redress; Article 5(2) CCD provides for the pre-contractual information to be provided in case of telephony communications by reference to DMFSD; Article 5(6) CCD provides for an additional requirement to provide consumers with an explanation of the pre-contractual information that shall be adapted to circumstances of the situation in which the credit agreement is offered, the person to whom it is offered and the type of credit offered (this obligation is not foreseen under DMFSD); Just as DMFSD, CCD requires to provide the pre-contractual information on paper or on another durable medium.
MCD	Mortgage	Yes Articles 14,15, 16 and Annex II MCD	MCD is generally in line with DMFSD and provides for some additional pre-contractual information requirements for mortgage credit agreements. The pre-contractual information to be provided for mortgage Credit is described in the European Standardised Information Sheet (ESIS) provided for in Annex II of the MCD;

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			Article 14(7) MCD establishes that the provision of the ESIS to the consumer fulfils the requirements of provision of pre-contractual information as set out in in Article 3(1) and 5(1) of DMFSD. According to Article 14, the ESIS has to be provided prior to the conclusion of the contract. While DMFSD allows for the provision of the pre-contractual information immediately after the contract when a distance mean is used MCD does not contain any provision regarding this possibility. MCD establishes a minimum period of 7 days after information has been provided for the consumer to compare offers and assess the implications and make an inform decision. DMFSD does not expressly foresee a reflection period (just a right of withdrawal without prejudice of any reflection if it exists in Member States); Article 14(10) establishes the pre-contractual information to be provided in case of voice telephony communications in order to fulfil the requirements set forth in Article 3 DMFSD; Article 16 of MCD states that Member States shall ensure that creditors/credit intermediaries/appointed representatives provide adequate explanations to the consumer on the proposed credit agreements and any ancillary services, in order to place the consumer in a position enabling him to assess whether the proposed credit agreements and ancillary services are adapted to his needs and financial situation (this obligation to provide explanations is not foreseen under DMFSD).
PAD	Payment Accounts	Yes Articles 4, 7 and 14 Payment Accounts Directive	The payment Accounts Directive provides for new elements for information disclosure for distance payment account contracts including fee information, information on the most representative services linked to a payment account and information on switching services.; According to Article 4(1) of the Payment Account Directive, the fee information document needs to be provided on paper or another durable medium in good time before entering into a contract for a payment account with a consumer. Additionally, Article 4(5) states that the fee information and the glossary shall be provided in an easily manner, including to non-customers, in electronic format on the website of the service providers, where available, and in the premises of payment service providers accessible to consumers; Additionally, Article 7 of the Payment Accounts Directive states that Member States shall ensure that consumers have access, free of charge, to a least one

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			website comparing fees charged by payment service providers for at least the services listed in the Directive. This Article sets the rules on the type of information that these websites need to provide to consumers; Article 14 of the Payment Accounts Directive provides that information on switching services shall be made available free of charge on paper or another durable medium at all premises of the payment service provider accessible to consumers, shall be available in electronic form on its website at all times, and shall be provided to consumers on request.
PSD II	Payment Services	Yes Tittle III in particular, Articles 44-58	They payment Service Directive provides for a long list of pre-contractual information to be provided under the different situations of payment and transactions adding additional/more detailed requirements than the ones contained under DMFSD; In order to adapt the provision of pre-contractual information to the specificities of distance payment contracts and transactions and to adapt it to current trends, Article 39 of the Payment Service Directive states that where DMFSD applies, the information requirements set out in Article 3(1) of that Directive, with the exception of points (2)(c) to (g), (3)(a), (d) and (e), and (4)(b) of that paragraph shall be replaced by Articles 44, 45, 51 and 52 of the Payment Services Directive; Articles 44- 58 of the Payment Services Directive establish a long list of information to be disclosed for each specific situation of payment. Just as DMFSD, Articles 44(1) and 51(1) of the Payment Service Directive requires the information to be provided on paper or on another durable medium; Similarly, to DMFSD, Article 51 states that in the context of a distance contract, the pre-contractual information needs to be provided at the latest immediately after the conclusion of the contract; Contrary to what is foreseen under DMFSD (Article 15), the Payment Service Directive states that Member States shall stipulate that the burden of proof lies with the payment service provider to prove that it has complied with the information requirement (in DMFSD it is a regulatory choice); Article 42 of the Payment Services Directive establishes the possibility for a derogation for low-value payment instruments and electronic money

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
IDD	Insurance	Yes Chapter V (Articles 17, 18, 19 and 20) and Article29-30 IDD	The IDD supplies a very detailed list of pre-contractual information to be provided before the conclusion of an insurance contract as well as the conditions and means through which the mandatory information has to be disclosed. The IDD establishes similar pre-contractual information requirements as the ones foreseen under DMFSD and adds some additional insurance-specific requirements; Article 17 of IDD establishes that Member States shall ensure that all information related to the subject of IDD, including marketing communications, addressed by the insurance distributor to customers or potential customers shall be fair, clear and not misleading. Moreover, IDD states that marketing communications shall always be clearly identifiable as such; Article 18 provides for a very detailed list of pre-contractual information to be provided before the conclusion of an insurance contract. As opposed to DMFSD, IDD does not foresee a consumer's right to change the means of distance communication used. IDD also does not contain an obligation to provide information on existence/absence of a right of withdrawal or on the right to terminate the contract early; For non-life insurance products, Article 20 of IDD provides for an standardised insurance product information document (IPID) on paper or another durable medium. The IPID shall include the following information: name of the manufacturer and member state where he is located; type of insurance; a summary of the insurance cover, including the main risks insured, the insured sum and, where applicable, the geographical scope and a summary of the excluded risks; the means of payment of premiums and the duration of payments; main exclusions; obligations at the start and during of the contract; obligations in the event that a claim is made; the term of the contract including the start and end dates of the contract and the means of terminating the contract; a reference to the complete pre-contractual and contractual information; Article 23 regulates the conditions for the use of the different mediums of communication of the pre-contractual information and establishes the provision of pre-contractual information on paper by default. Article 23 of IDD also regulates the possibility to provide pre-contractual information on a website (DMFSD only mentions paper or another durable medium without expressly referring to websites). More specifically, IDD states that as long as the consumers have been

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			given the choice between information on paper, durable media, and websites and that the provision of information using one specific means is regarded as appropriate in the context of the business conducted between the insurance distributor and the consumer, any of these means can be used. Moreover, Article 23(3) states that where the information referred to in Articles 18, 19, 20 and 29 is provided using a durable medium other than paper or by means of a website, a paper copy shall be provided to the customer upon request and free of charge; In the case of telephone selling, Article 23(7) refers to DMFSD stating that the information given to the customer by the insurance distributor prior to the conclusion of the contract, including the insurance product information document, shall be provided in accordance with Union rules applicable to the distance marketing of consumer financial services. Moreover, even if the customer has chosen to obtain prior information on a durable medium other than paper, information shall be provided by the insurance distributor to the customer immediately after the conclusion of the insurance contract.
MiFID	Investment	Yes Articles 23, 24 and 25 MiFID	MiFID contains a list of pre-contractual information adapted to the specificities of the investment product including: a description of products and policies on asset protection, conflicts of interest and execution of orders, which must be delivered to clients so they can make their investment decisions; Similarly to DMFSD, Article 25(6) of MiFID states that where the agreement to buy or sell a financial instrument is concluded using a means of distance communication which prevents the prior delivery of the suitability statement, the investment firm may provide the written statement on suitability in a durable medium immediately after the client is bound by any agreement. However, MiFID establishes two conditions for the provision of information after signature of the agreement: 1. the client has consented to receiving the suitability statement without undue delay after the conclusion of the transaction; the investment firm has given the client the option of delaying the transaction in order to receive the statement on suitability in advance. DMFSD only requires that the contract has been concluded at the consumer's request; Article 23 MiFID includes the need to provide information on conflict of interest; MiFID does not include a requirement to provide information on the public register where the supplier is registered and on the relevant supervisory authority, on the

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			identity of the investment firm and geographical address in which the supplier is registered, on the existence/absence of a right of withdrawal and on the right to terminate the contract early and on redress mechanisms.
UCITS	Investment	Yes Articles 78, 79, 80 and 81 of UCITS. See also Article 63, Article 64, Chapter IX and Schedule A of Annex I.	The UCITS Directive includes a very extensive list of pre-contractual information. UCITS includes most of the pre-contractual information requirements foreseen under DMFSD and adds specific information requirements adapted to the characteristic of collective investments in transferable securities; The UCITS Directive requires the publication of a Key investor information Document (KIID) for the provision of pre-contractual information in n for all retail investment funds. The KIID provides investors with information on the UCITS, investment objectives, risks/rewards, costs and historical performance among others; However, as oppose to DMFSD, the UCITS Directive does not foresee any provision regarding information on redress and on the law applicable to the contract; Article 81 of UCITS Directive establishes that the pre-contractual information may be provided in a durable medium or by means of a website. Nonetheless, a paper copy shall be delivered to the investor on request and free of charge. DMFSD on the contrary, only refers to paper or other durable mean without expressly referring to the use of websites.
Prospectus Regulation	Investment	Yes Articles 3, 6, 7, 12, 13 and 21 .	This Regulation aims to harmonise requirements for the drafting, approval, and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market in an EU Member State; Article 3(1) of the Prospectus Regulation provides that securities shall only be offered to the public in the Union after prior publication of a prospectus; Article 6 of the Prospectus Regulation establishes that type of information that should be included in the prospectus; Article 6(2) provides that the information in the prospectus shall be written and presented in an easily analysable, concise and comprehensible form, but it does not specify the means of communication of the information (unlike DMFSD);

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			Article 7 of the Prospectus requires that the prospectus includes a summary that provides the key information that investors need in order to understand the nature and the risks of the issuer, the guarantor and the securities that are being offered or admitted to trading on a regulated market, and that is to be read together with the other parts of the prospectus to aid investors when considering whether to invest in such securities (with some exceptions for certain types of non-equity securities); Article 7 also establishes a maximum of pages for the summary (when printed); Article 12 foresees a time limit of 12 months for the information provided in the prospectus; Article 21 provides that the prospectus shall be deemed available to the public when published in electronic form on a series of websites including the website of the issuer, the website of the financial intermediaries, the website of the regulated market where the admission to trading is sough (DMFSD requires to provide the information in paper or any other durable mean). Moreover, Article 21 also requires that the prospectus is published on a dedicated section of the website which is easily accessible when entering the website. Additionally, the Prospectus shall be downloadable, printable and in searchable electronic format that cannot be modified. Moreover, Article 21(11) states that a copy of the prospectus on a durable medium shall be delivered to any potential investor, upon request and free of charge; Additionally, Article 21(4) also establishes that the access to the prospectus shall not be subject to the completion of a registration process, the acceptance of a disclaimer limiting legal liability or the payment of a fee; Article 21(7) states that all prospectuses; approved shall remain publicly available in electronic form for at least 10 years after their publication on the websites.
AIFMD	Investment	Yes Articles 22 and 23 of AIFMD	Article 23 of AIFMD establishes that AIFMS shall provide to investors the following information before they invest: includes descriptions of the investment strategy, the identity of the AIFM, applicable law, types of assets invested in, techniques employed, use of leverage, delegation arrangements, valuation procedure and pricing methodology, liquidity risk management, all fees, charges and expenses,

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			any preferential treatment for certain investors, the latest annual report, the procedure and conditions to issue and sale shares; Additionally, Article 23 of AIFMD also states that AIFMs shall periodically disclose to investors information on the percentage of the AIF's assets subject to special arrangements due to their illiquid nature, any new arrangements for managing the liquidity of the AIF, and the current risk profile of the AIF and the risk management systems employed by the AIFM to manage those risks; However, as opposed to DMFSD, the Directive does not require to provide information on the public register where the supplier is registered, on the relevant supervisory authorities, and information on redress; Article 22 of AIFMD establishes the obligation to make available an annual report for each of the financial years as well as the minimum content of the annual report. This article also establishes that the report shall be provided to the investors on request.
Directive on investor compensation schemes	Investment	Yes Article 10 Directive on investor compensation schemes	The Directive on investor compensation schemes only regulates the provision of information to actual and intending investors on investor-compensation scheme of which the investment firm and its branches within the Community are members and on the provisions of the investor-compensation scheme or any alternative arrangement applicable, including the amount and scope of the cover offered by the compensation scheme and rules laid down by the Member States; Information concerning the conditions governing compensation and the formalities which must be completed to obtain compensation shall only be provided upon request; Actual and intending investors at branches established by an investment firm the head office of which is out with the Community shall be provided by that investment firm with all relevant information concerning the compensation arrangements which cover their investments.
PRIIPs	Insurance and investment	Yes Articles 5-18 PRIIPS	The PRIIPs contains very detailed pre-contractual information requirements. The information requirements PRIIPs are more stringent than DMFSD. PRIIPs requires all PRIIP manufacturers to publish the key information document (KID) which constitutes pre-contractual information. The KID includes the following information: the name of the product and the identity of the producer; information

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			on the competent authority; the types of investors for whom it is intended; the risk and reward profile of the product, which includes a summary risk indicator; the possible maximum loss of invested capital and appropriate performance scenarios of the product; the costs investors have to bear when investing in the product information about how and to whom an investor can make a complaint in case there is a problem with the product or the person producing, advising on or selling the product; PRIIPs requires all PRIIP manufacturers to publish the key information document (pre-contractual information) on their website (DMFSD does not foresee the publication of pre-contractual information on a website); PRIIPs establishes that the pre-contractual information shall not contain cross-references to marketing material. It differentiates between pre-contractual information and information provided in marketing communications (see Articles 6 and 9). Marketing communications that contain specific information relating to the PRIIP shall not include any statement that contradicts the information contained in the key information document or diminishes the significance of the key information document; PRIIPs establishes a maximum number of pages (when printed) for the pre-contractual information; Article 11 of PRIIPs states that a retail investor who demonstrates loss resulting from reliance on a key information document when making an investment into the PRIIP for which that key information document was produced, may claim damages from the PRIIP manufacturer for that loss in accordance with national law. On the other hand, DMFSD does not make any express reference to the possibility to claim damages based on the information provided by the supplier; Article 13 of PRIIP refers directly to DMFSD to regulate a situation where a person selling a PRIIP may provide the retail investor with the key information document after conclusion of the transaction. Article 13 establishes more restricted conditions under which the pre-contractual information can be provided without undue delay after concluding the contract. Thus, apart from the conditions established by DMFSD (contract concluded at the consumer request and distance communication does not allow to provide information), the person advising on or selling the PRIIP has to inform the retail investor that provision of the key

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			information document is not possible and has to clearly state that the retail investor may delay the transaction in order to receive and read the key information document before concluding the transaction. Moreover, the retail investor must consent to receiving the key information document without undue delay after conclusion of the transaction, rather than delaying the transaction in order to receive the document in advance; Article 14 PRIIPs allows for the provision of information on paper, using a durable medium or by means of a website. DMFSD only foresees the use of paper or another durable medium. PRIIPS also list the conditions under which the information can be provided through a website.
DGS	Payment accounts	Yes Article 16 DGS	The DGS only requires providing information necessary to identify the DGSs of which the institution and its branches are members within the Union as well as on applicable exclusions from DGs protection; The Deposit Directive establishes that if a depositor uses internet banking, the information required to be disclosed by this Directive may be communicated by electronic means. The Directive does not require to communicate the information in paper or another durable mean (however, it shall be provided in paper at the depositor's request).
PEPP	Pensions	Yes Section I Article 24 And Articles 26-31 PEPP	Article 24 of the PEPP states that PEPP providers and distributors shall provide all documents and information free of charge to PEPP customers electronically, provided that the PEPP customer is able to store such information in a way accessible for future reference and for a period of time adequate for the purposes of the information and that the tool allows the unchanged reproduction of the information stored. This definition of durable medium is the same as the one contained in the DMFSD. However, as oppose to the DMFSD, the PEPP only seems to foresee the provision of this information electronically unless the consumer requests it on paper; Article 26 requires the PEPP provider to publish the Key Information Document (KID) (pre-contractual information) on its website (DMFSD requires the provision of pre-contractual information in paper or any other durable mean);

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			Article 26 also requires the publication of the KID as a stand-alone document clearly separate from marketing materials (the DMFSD does not make such a distinction); The PEPP also includes an additional requirement regarding the style and format of the pre-contractual information contained in the KID (Article 26(5)); There is certain degree of overlap between the information disclosure requirements under the PEPP and the DMFSD information on aspects related to the provider, the product, the registry and supervisory authority, complaint and redress mechanisms, the costs, the law applicable to the contract, the right of withdrawal etc. However, the type of pre-contractual information to be provided under PEPP is more detailed (and tailored to the specific characteristics of the product) than the requirements under the DMFSD. Thus, Article 28(3) requires the PEPP to provide information on the name of the PEPP, whether it is a Basic PEPP or not, the identity and contact details of the PEPP provider, information about the competent authorities of the PEPP provider, the registration number of the PEPP in the central public register and the date of the document. Additionally to what is foreseen under the DMFSD, the pre-contractual information to be provided to PEPP savers includes information on the past performance of the PEPP saver's investment option, language requirements, more detailed information on the nature and features of the product (including long-term objectives and the means for achieving them and description of the type of PEPP saver to whom the PEPP is intended to be marketed, in particular in terms of the PEPP saver's ability to bear investment loss and the investment horizon), information on the PEPP retirement benefits, details on existing risks, consequences of early withdrawal, information on PEPP savers' rights, on the conditions to modify investment option, the possible maximum loss of invested capital, conditions for returns to PEPP savers or built-in performance caps, whether the related loss is covered by an investor compensation or guarantee scheme requirements related to the pay-out phase, etc. Article 28(4) expressly refers to the possibility of layering the information required under Article 28(3) where the PEPP KID is provided in an electronic format, whereby detailed parts of the information can be presented through pop-ups or through links to accompanying layers. However, this article also states that in that

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			case, it has to be possible to print the PEPP KID as one single document. As the DMFSD does not expressly refer to the provision of pre-contractual information by electronic means, this possibility is not recognised under this Directive. Article 30 requires the EPP provider to review the information contained in the PEPP KID at least annually and to revise the document where the review indicates that changes need to be made (this is not required under the DMFSD). Article 31 states that a PEPP saver who demonstrates loss resulting from reliance on a PEPP KID, when concluding a PEPP contract for which that PEPP KID was produced, may claim damages from the PEPP provider for that loss in accordance with national law 9 this possibility is not expressly foreseen under the DMFSD). In line with the DMFSD, the PEPP requires to provide the pre-contractual information in good time before those PEPP savers are bound by any PEPP contract or offer relating to that PEPP contract.
UCPD	Horizontal	No	UCPD does not contain an obligation to provide pre-contractual information per se however it defines what should be understood by misleading actions and omissions as well as aggressive commercial practices; Article 3(9) of UCPD states that in relation to 'financial services', as defined in DMFSD, and immovable property, Member States may impose requirements which are more restrictive or prescriptive than UCPD; Article 6 and 7 of UCPD describe when a commercial practice shall be regarded as misleading (regarding the information provided to consumers). In particular, Article 7 states that a commercial practice shall be regarded as misleading if, in its factual context, taking account of all its features and circumstances and the limitations of the communication medium, it omits material information that the average consumer needs, according to the context, to take an informed transactional decision. In this context material information includes information on the main characteristics of the product, the geographical address and the identity of the trader, total cost, the arrangements for payment, delivery, performance and the complaint handling policy, right of withdrawal or cancellation, the existence of such a right. Moreover, Annex II of UCPD also refers to Articles 3 and 4 of DMFSD as material information for the purposes of defining what constitutes misleading omissions.

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
UCTD	Horizontal	No	Not Applicable[611]
GDPR	Horizontal	No	Article 6(1)(b) GDPR provides a lawful basis for the processing of personal data to the extent that "processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract"; Articles 13 and 14 of GDPR establish an obligation to provide information with regard to the collection and processing of personal data; In particular, Article 13 of GDPR creates an obligation to provide information on the personal data collected from the data subject at the time when it was obtained. This provision requires the data controller to provide information on: the identity and the contact details of the controller and of the controller's representative Contact details of the data protection officer Purposes of the processing The recipients or categories of recipients of the personal data where applicable, the fact that the controller intends to transfer personal data to a third country or international organisation and the existence or absence of an adequacy decision by the Commission The period for which the personal data will be stored the existence of the right to request from the controller access to and rectification or erasure of personal data the right to lodge a complaint with a supervisory authority whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data

[611] Where the instrument analysed does not contain any specific provision on pre-contractual information, right of withdrawal etc. the second column of the table does not apply.

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			subject is obliged to provide the personal data and of the possible consequences of failure to provide such data the existence of automated decision-making, including profiling According to Article 14, the same information needs to be provided when the personal data have not been obtained from the data subject.
EPD	Horizontal	No	Not Applicable[612]
ECD	Horizontal	Yes Articles 5, 6 and 10 of ECD	Similarly, to DMFSD, Article 5 of ECD regulates the provision of information on the identity, geographical address and all details of the service provider, information on public registers and supervisory authorities, information on requirements for regulated professions and information on prices (including taxes and costs); Similarly, to DMFSD, Article 6 of ECD provides that commercial communications shall be clearly identified as such. This article also requires that the identity of the person on whose behalf the commercial communication is provided. On the other hand, DMFSD expressly regulates voice telephony communications and sets the minimum information requirements for commercial calls. ECD does not expressly refers to voice telephony communications and only requires that the person who makes the call is clearly identifiable; Article 10(1) of ECD requires the service provider to give the following information prior to the order being placed: steps to conclude the contract, whether the contract will be filed, means to correct errors prior to placing the order, languages for the conclusion of the contract; Article 10(3) of ECD provides that the contract terms and general conditions must be made available in a way that allows the recipient to store and reproduce them (DMFSD provides that this information should be provided in written or any other durable mean); Article 10(4) foresees an exception for the provision of information contained in Article 10(1) and (2) for contracts concluded exclusively by exchange of electronic mail or equivalent individual communications.

[612] Where the instrument analysed does not contain any specific provision on pre-contractual information, right of withdrawal etc. the second column of the table does not apply.

EU product-specific legislation and horizontal legislation	**Area**	**Pre-contractual information (Yes/No)**	**Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?**
Geo-blocking Regulation	Horizontal (*) Access to retail financial services, including payment services are excluded from the scope of the Regulation, notwithstanding the provisions of this Regulation regarding non-discrimination in payments[613]	No	Recital 18 provides that in order to increase the ability of customers to access information related to the sales of goods and the provision of services within the internal market and to increase transparency, including with respect to prices, traders should not, through the use of technological measures or otherwise, prevent customers from having full and equal access to online interfaces, including in the form of mobile applications, based on their nationality, place of residence or place of establishment.
CRD	(*) This Directive does not apply consumer financial services	Yes Articles 6 and 7	The CRD differentiates between the information to be provided in distance and off-premises contracts and non-distance contracts; Article 6 provides for the information requirements for distance contracts. These conditions mirror the pre-contractual information requirements set forth in DMFSD; Article 7 further states that for off-premises contracts, the trader shall give the information to the consumer on paper or, if the consumer agrees, on another durable medium; For its part, Article 8 provides that for distance contracts, the trader shall make the information available to the consumer in a way appropriate to the means of distance communication used in plain and intelligible language. Moreover Article 8(2) refers to the use of electronic means for the conclusion of the contract and states that in this case, the trader shall ensure that the consumer, when placing his order, explicitly acknowledges that the order implies an obligation to pay;

[613] Recital 8 of the Geo-blocking Regulation.

EU product-specific legislation and horizontal legislation	Area	Pre-contractual information (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links between DMFSD and product-specific/Horizontal legislation?
			Article 8(4) establishes rules on the adaptation of information requirements to technical constraints of the means of distance communication (requirements similar to ones provided by Article 3(3) of DMFSD); While Article 4 of DMFSD allows Member States to introduce more stringent provisions on pre-contractual information requirements, Article 8(10) of CRD fully harmonise the provision of pre-contractual information for distance and off premises contracts and states that Member States shall not impose any further formal precontractual information requirements for the fulfilment of the information obligations laid down in the Directive.

Provisions on right of withdrawal

EU product-specific legislation and horizontal legislation	Area	Right of withdrawal? (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
CRD	Credit	Yes Article 14 CCD	Article 14 CCD provides that the consumer shall have a period of 14 calendar days in which to withdraw from the credit agreement without giving any reason (same timeframe as the one provided under DMFSD); DMFSD foresees a reinforced protection of consumers in the case of withdrawal by establishing that the supplier may not require the consumer to pay any amount unless he can prove that the consumer was duly informed (during the pre-contractual phase) of the amount payable. According to DMFSD, the supplier cannot request such payment if he has commenced the performance of the contract before the expiry of the withdrawal period without the consumer's prior request.
MCD	Mortgage	Yes (Article 14 MCD- Member States may establish a right of withdrawal but it is not mandatory)	Recital 21 explains that the MCD should supplement DMFSD. Recital 23 considers that it is necessary to regulate some additional areas in order to reflect the specificity of credits related to residential immovable property, ensuring that consumers have sufficient time of at least seven days to consider the implications or withdraw. Article 14(6)(2) states that Member States may establish a period to exercise the right of withdrawal, but this is not mandatory; MSs may establish a time period of 7 days for exercising a right of withdrawal after the conclusion of the credit agreement (they can use this time as reflection period, as withdrawal period or as a combination of the two); Article 14(6)(6) MCD establishes that where the consumer has a right of withdrawal in accordance with the Directive, Article 6 of DMFSD does not apply; Article 14(11) states that where a right of withdrawal exists, Member States shall ensure that the creditor/credit intermediary or appointed representative offers to provide the consumer with a copy of the draft credit agreement at the time of the provision of an offer binding on the creditor.
PAD	Payment Accounts	No	Not Applicable

EU product-specific legislation and horizontal legislation	Area	Right of withdrawal? (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
PSD II	Payment Services	Yes Article 64(3) of Payment Services Directive	Article 64(3) of the Payment Services Directive establishes that consent to execute a payment transaction may be withdrawn by the payer at any time, but no later than at the moment of irrevocability. Consent to execute a series of payment transactions may also be withdrawn, in which case any future payment transaction shall be considered to be unauthorised.
IDD	Insurance	No	Not Applicable
MiFID	Investments	No	Not Applicable
UCITS	Investments	No	Article 64(3) provides that in the case of Conversion of existing UCITS into feeder UCITS and change of master UCITS, the UCITS Directive recognises a right to unit-holders to request within 30 days the repurchase or redemption of their units without any charges other than those retained by the UCITS to cover disinvestment costs.
Prospectus Regulation	Investment	Yes (under certain conditions) Article 17 (a) and Article 23(2) of the Prospectus Regulation	The Prospectus regulation (Article 17 (a)) only foresees a right of withdrawal in the case that the final offer price and/or amount of securities to be offered to the public, could not be included in the prospectus (unless the requirements set under Article 17(b) are fulfilled); In this context, Article 17 provides for a minimum of two days after the final offer price and/or amount of securities to be offered to the public has been filed to withdraw the acceptances of the purchase or subscription of securities; Article 23 regulates the publication of supplements to the prospectus in case of significant new factors, material mistakes or material inaccuracies relating to the information included in a prospectus. In this context, Article 23(2) provides that where the prospectus relates to an offer of securities to the public, investors who have already agreed to purchase or subscribe for the securities before the supplement is published have the right, exercisable within two working days after the publication of the supplement, to withdraw their acceptances, provided that the significant new factor, material mistake or material inaccuracy arose or was noted before the closing of the offer period or the delivery of the securities, whichever occurs first. The supplement shall contain all information regarding the right of withdrawal.
AIFMD	Investment	No	Not Applicable

EU product-specific legislation and horizontal legislation	Area	Right of withdrawal? (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
Directive on investor compensation schemes	Investment	No	Not Applicable
PRIIPs	Insurance and investment	No	Article 8(3)(g) establishes that if there is a cooling off period, the provider needs to provide pre-contractual information on this but does not regulate the cooling off period.
DGS	Payment Accounts	No	In the case of a merger, depositors are given a three-month period following notification of the merger or conversion or similar operation to withdraw or transfer to another credit institution, without incurring any penalty, their eligible deposits including all accrued interest and benefits in so far as they exceed the coverage level pursuant to Article 6 at the time of the operation (Article 16(6)).
PEPP	Pensions	No	Not Applicable
UCPD	Horizontal	No	Not Applicable
UCTD	Horizontal	No	Not Applicable
GDPR	Horizontal	No	Not Applicable
EPD	Horizontal	No	Not Applicable
ECD	Horizontal	No	Not Applicable
Geo-blocking Regulation	Horizontal (*) Access to retail financial services, including payment services are excluded from the scope of the Regulation, notwithstanding the provisions of this Regulation	No	Recital 20 states that once the customer's explicit consent has been given, including by expressing a preference that applies to a personal account, that explicit consent should be deemed to be valid for all subsequent visits of the same customer to the same online interface. It should be possible for the customer to withdraw such consent at any point in time.

EU product-specific legislation and horizontal legislation	Area	Right of withdrawal? (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
	regarding non-discrimination in payments[614]		
CRD	(*) This Directive does not apply consumer financial services	Yes Article 9 of CRD	Article 9 foresees a right of withdrawal within a period of 14 days for distance or off-premises contracts (same timeframe as the one provided under DMFSD). However, Article 16 provides for some exceptions to right of withdrawal; Article 10 states that if the trader has not provided the consumer with the information on the right of withdrawal as required by the pre-contractual information requirements set forth in Article 6, the withdrawal period shall expire 12 months from the end of the initial withdrawal period (DMFSD does not foresee this possibility). According to Article 13 of CRD, the trader shall reimburse all payments received from the consumer, including, if applicable, the costs of delivery without undue delay and in any event not later than 14 days from the day on which he is informed of the consumer's decision to withdraw. Article 7(4) of DMFSD sets a period of 30 days for the supplier to return to the consumer any sums he has received; Similarly, Article 14 also establishes 14 days for the consumer to return the goods while DMFSD establishes a period of 30 days.

[614] Recital 8 of the Geo-blocking Regulation.

Provisions on unsolicited services and communications

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
CCD	Credit	No (unsolicited communications and unsolicited services)	Not Applicable
MCD	Mortgage	No (unsolicited communications and unsolicited services)	Not Applicable
PAD	Payment accounts	No (unsolicited communications and unsolicited services)	Not Applicable
PSD II	Service Accounts	Yes (unsolicited services) Article70(1)(b) of the PSD II No (unsolicited communications)	Article 70(1)(b) of the Payment Service Directive states that the payment service provider shall refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced. DMFSD prohibits the supply of unsolicited financial services in case of tacit renewal, when this supply includes a request for immediate or deferred payment. If the "replacement" of the payment instrument is understood as a tacit renewal of the service, it follows that in such case the PSD allows the supply of unsolicited payment instruments with no limitations while the DMFSD only allows it when this supply does not include a request for immediate or deferred payment.
IDD	Insurance	No (unsolicited communications and unsolicited services), but provision on marketing communication (which might be unsolicited)	Article 17(2) of IDD states, as a general principle, that all information related to the subject of IDD, including marketing communications, addressed by the insurance distributor to customers or potential customers shall be fair, clear and not misleading and that marketing communications shall always be clearly identifiable as such.

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
MiFID	Investment	No (unsolicited communications and unsolicited services)	Not Applicable
UCITS	Investment	No (unsolicited communications and unsolicited services)	Not Applicable
Prospectus Regulation	Investment	No (unsolicited communications and unsolicited services)	Not Applicable
AIFMD	Investment	No (unsolicited communications and unsolicited services)	Not Applicable
Directive on investor compensation schemes	Investment	No (unsolicited communications and unsolicited services), only general provision on advertising	Member States shall establish rules limiting the use of advertising in order to prevent such use from affecting the stability of the financial system or investor confidence. In particular, a Member State may restrict such advertising to a factual reference to the scheme to which an investment firm belongs.
PRIIPs	Insurance and investment	No (unsolicited communications and unsolicited services)	Not Applicable
DGS	Payment Accounts	No (unsolicited communications and unsolicited services)	Not Applicable
PEPP	Pensions	No (unsolicited communications and unsolicited services)	Not Applicable

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
UCPD	Horizontal	Yes (unsolicited communications) Article 8 of UCPD Yes (unsolicited services) Article 15 of UCPD	UCPD regulates unfair commercial practices. That is misleading commercial practices and aggressive commercial practices (Article 6, 7, 8, 9 Annex I and II of the Directive) and establishes a prohibition of inertia selling practices; Article 8 of UCPD defines aggressive commercial practices. A commercial practice shall be regarded as aggressive if, in its factual context, taking account of all its features and circumstances, by harassment, coercion, including the use of physical force, or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to the product and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise. Annex I (para. 26) includes among the aggressive commercial practices which are in all circumstances considered unfair the making of persistent and unwanted solicitations by telephone, fax, e-mail or other remote media except in circumstances and to the extent justified under national law to enforce a contractual obligation. This is without prejudice to Article 10 of Directive 97/7/EC and Directives 95/46/EC (2) and 2002/58/EC. This is consistent with DMFSD that requires consumer's prior consent to the use by a supplier of automated calling systems without human intervention and fax machines, since "unwanted solicitations" by means of such distance communication techniques are by definition not underpinned by any consent. Article 15(2) of UCPD replaces Article 9 of DMFSD. Thus, Article 9 of DMFSD shall read as follows: "the prohibition of inertia selling practices laid down in Directive 2005/29/EC of 11 May 2005 of the European Parliament and of the Council concerning unfair business-to consumer commercial practices in the internal market and without prejudice to the provisions of Member States' legislation on the tacit renewal of distance contracts, when such rules permit tacit renewal, Member States shall take measures to exempt the consumer from any obligation in the event of unsolicited supplies, the absence of a reply not constituting consent".
UCTD	Horizontal	No (unsolicited communications and unsolicited services)	Not Applicable

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
GDPR	Horizontal	Yes (Unsolicited communications) Articles 4(11), 6(1), 7, 21(2) and 47 of GDPR	DMFSD allows the use by a supplier of certain distance communication techniques only subject to the consumer's prior consent but without providing any definition of such consent; while GDPR regulates in detail the consent in the context of personal data collection and processing. Article 4(11) of GDPR defines consent in the context of personal data collection and processing. According to GDPR consent means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her; Article 6 of GDPR defines when the processing of personal data shall be deemed as lawful including when the data subject has given consent to the processing of his or her personal data for one or more specific purposes (Article 6(1)(a)) and when the processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract (Article 6(1)(b); Article 7 of GDPR establishes the conditions for giving consent. More specifically, Article 7(1) states that where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data. Article 7(2) foresees that if the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language; Article 7(3) of GDPR states that the data subject shall have the right to withdraw his or her consent at any time; Article 7(4) provides that when assessing whether consent is freely given, utmost account shall be taken of whether, inter alia, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract;

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
			Article 21(2) of GDPR provides that where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing, which includes profiling to the extent that it is related to such direct marketing. Moreover, Article 21(3) states that where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes. DMFSD does not foresee a right object or withdraw consent for the processing of personal data.
EPD	Horizontal	Yes (Unsolicited communications) Articles 6 and 13 of the EPD No (Unsolicited services)	Both EPD and DMFSD require prior consent for the use of automated calling systems without human intervention and fax machines; EPD also expressly refers to the use of electronic mail. This aspect is not expressly regulated by DMFSD. However, Article 10(2) of DFMSD refers to "other means of distance communication" - other than fax and automatic calling machines - when they allow individual communications" stating that they cannot be authorised unless the consent of the consumers concerned has been obtained or may only be used if the consumer has not expressed his manifest objection. EPD goes a bit further than DMFSD (which only indirectly covers electronic mail) and establishes that the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited; Both EPD and DMFSD state that the use of means of distance communication for marketing purposes and the measures foreseen in both legal instruments should be free of charge (Article 13(3) EPD, Article 10(3) DMFSD); EPD also states that consumers/subscribers must be given the opportunity to object free of charge in any easy manner, to electronic communications for direct marketing purposes; Article 6 of EPD provides that for the purpose of marketing electronic communications services or for the provision of value added services, the provider of a publicly available electronic communications service may process traffic data relating to subscribers and users to the extent and for the duration

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
			necessary for such services or marketing, if the subscriber or user to whom the data relate has given his/her consent. Users or subscribers shall be given the possibility to withdraw their consent for the processing of traffic data at any time.
ECD	Horizontal	Yes (unsolicited communications) Article 7 ECD No (unsolicited services)	Article 7 ECD applies "in addition to other requirements established by Community law" and only refers to unsolicited commercial communication by electronic mail, while the DMFSD only indirectly covers electronic mail, *see above*); According to Article 7(1) ECD, Member States which permit unsolicited commercial communication by electronic mail shall ensure that such commercial communication by a service provider established in their territory shall be identifiable clearly and unambiguously as such as soon as it is received by the recipient; Additionally, Article 7(2) provides that Member States shall take measures to ensure that service providers undertaking unsolicited commercial by electronic mail consult regularly and respect the opt-out registers in which natural persons not wishing to receive such commercial communications can register themselves.
Geo-blocking Regulation	Horizontal (*) Access to retail financial services, including payment services are excluded from the scope of the Regulation, notwithstanding the provisions of this Regulation regarding non-	No	Not Applicable

EU product-specific legislation and horizontal legislation	Area	Unsolicited services and communications (Yes/No)	Are there any contradictions/overlaps/inconsistencies/missing links
	discrimination in payments[615]		
CRD	(*) This Directive does not apply consumer financial services	Yes (unsolicited services) Article 27 CRD No (unsolicited communications)	Article 27 of the CRD provides that the consumer shall be exempted from the obligation to provide any consideration in cases of unsolicited supply of goods, water, gas, electricity, district heating or digital content or unsolicited provision of services, prohibited by Article 5(5) and point 29 of Annex I to Directive 2005/29/EC (Unfair Commercial Practices Directive). In such cases, which may include cases of the tacit renewal of distance contracts, the absence of a response from the consumer following such an unsolicited supply or provision shall not constitute consent. The provision overlaps with Article 9 DMFSD.

[615] Recital 8 of the Geo-blocking Regulation.

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