

18 March 2016

**CFA Institute response to the European Commission's Green Paper on Retail Financial Services: Better products, more choice, and greater opportunities for consumers and businesses**

CFA Institute submitted a response to the European Commission's Green Paper on Retail Financial Services on 18 March 2016.

The response focused on the development of cross-border financial services, and in particular how an improved framework for Undertakings for Collective Investment in Transferable Securities (UCITS) Directive could facilitate the purchasing of products in the EU. In addition, we identified some measures to overcome the barriers to the Capital Markets Union through digitalisation, automated financial advice, and fintech innovation. We also highlight means to improve investor redress in retail investment markets.

The final response was submitted via the European Commission's online questionnaire and is reproduced below.



# Green Paper on retail financial services: better products, more choice, and greater opportunities for consumers and businesses

Fields marked with \* are mandatory.

## Introduction

The Green Paper seeks the views on how to improve choice, transparency and competition in retail financial services to the benefit of European consumers. It also inquires on how to facilitate cross-border supply of these services, so that financial firms can make the most of the economies of scale in a truly integrated EU market. Finally, it is discussing the impact of digitalisation on retail financial services with a view to allow for growth of innovative solutions in this area in the EU.

**Please note:** In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact [fisma-retail-green-paper@ec.europa.eu](mailto:fisma-retail-green-paper@ec.europa.eu).

More information:

- [on this consultation](#)
- [on the Green paper](#)
- [on the protection of personal data regime for this consultation](#) 

## 1. Information about you

\* Are you replying as:

- a private individual
- an organisation or a company
- a public authority or an international organisation

\* Name of your organisation:

CFA Institute

Contact email address:

The information you provide here is for administrative purposes only and will not be published

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\* Is your organisation included in the Transparency Register?

(If your organisation is not registered, [we invite you to register here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#))

- Yes
- No

\* If so, please indicate your Register ID number:

89854211497-57

\* Type of organisation:

- Academic institution
- Consultancy, law firm
- Industry association
- Non-governmental organisation
- Trade union
- Company, SME, micro-enterprise, sole trader
- Consumer organisation
- Media
- Think tank
- Other

\* Please specify the type of organisation:

Global association of investment professionals

\* Where are you based and/or where do you carry out your activity?

Belgium

\* Field of activity or sector (*if applicable*):

at least 1 choice(s)

- Consumer protection
- General civil society representation (non-profit)
- Accounting
- Auditing
- Banking

- Credit rating agencies
- Insurance
- Financial intermediation
- Fintech firms
- Pension provision
- Payment provision
- Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- Social entrepreneurship
- Other
- Not applicable



## Important notice on the publication of responses

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- \* Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?  
(see [specific privacy statement](#) )
  - Yes, I agree to my response being published under the name I indicate (*name of your organisation/company/public authority or your name if your reply as an individual*)
  - No, I do not want my response to be published

## 2. Your opinion

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**Disclaimer:** the proposed options as responses to some of the questions do not commit the European Commission to any follow-up action.

The questionnaire contains 34 questions which seek the views of a broad range of stakeholders. However, not every question will be relevant to everyone and therefore stakeholders are not obliged to respond to all the questions.

The questionnaire below follows the structure of the [Green Paper](#) in which Section 3 outlines all the consultation questions.

### Section 3: Better products, more choice and greater opportunities for consumers and businesses

Please [refer to section 3 of the Green paper](#)  to read context information before answering the questions.

If you are a firm...

1A. For which financial products could improved cross-border supply increase competition on national markets in terms of better choice and price?

Please tick all relevant boxes

- Current accounts
- Saving accounts
- Mortgage credit
- Consumer lending
- Payment services (e.g. mobile payments)
- Car insurance
- Life insurance
- Private health insurance
- Saving and investment products
- Other
- Don't know / no opinion / not relevant

If you are a consumer or consumer organisation...

1B. Which financial products would you be most interested to buy cross-border from other Member States if they suited your needs better than products available on your local market?

Please tick all relevant boxes

- Current accounts
- Saving accounts
- Mortgage credit
- Consumer lending
- Payment services (e.g. mobile payments)
- Car insurance
- Life insurance
- Private health insurance
- Saving and investment products
- Other
- Don't know / no opinion / not relevant

If you are a firm...

2A. What are the barriers which prevent firms from directly providing financial services cross-border?

Please tick all relevant boxes

- Language
- Differences in national legislation
- Additional requirements imposed by national regulators
- Impossibility of verifying the identity of cross-border customers
- Lack of knowledge of other markets

- Cost of servicing clients cross-border (without local infrastructure)
- No EU passport available
- Other
- Don't know / no opinion / not relevant

Please specify what other barriers prevent firms from directly providing financial services cross-border:

CFA Institute conducted a member survey on the European Capital Markets Union (CMU) initiative in the spring of 2015. According to the respondents, the two main barriers to the development of cross-border EU capital markets are differences in taxation treatment across jurisdictions and differences in legal frameworks surrounding the ownership and transfer of securities. These two challenges were noted as "significant" barriers by 65% and 63% of the respondents, respectively.

CFA Institute would welcome further action to facilitate cross-border purchasing of products in the EU. We find it regrettable that the Commission has proposed only limited action in revising securities law legislation for example.

If you are a consumer or consumer organisation...

2B. What are the barriers that prevent consumers from directly purchasing products cross-border?

Please tick all relevant boxes

- Language
- Territorial restrictions (e.g. geo-blocking, residence requirement)
- Differences in national legislation
- Lack of knowledge of the offer of products in another Member State
- Lack of knowledge of redress procedures in another Member State
- Other
- Don't know / no opinion / not relevant

3. Can any of these barriers be overcome in the future by digitalisation and innovation in the FinTech sector?

- Yes
- No
- Don't know / no opinion / not relevant

3.1 Please specify which of these barriers can be overcome in the future by digitalisation and innovation in the FinTech sector:

Please tick all relevant boxes

- Language
-

- Territorial restrictions (e.g. geo-blocking, residence requirement)
- Differences in national legislation
- Additional requirements imposed by national regulators
- Impossibility of verifying the identity of potential cross-border clients
- Lack of knowledge of other markets
- Lack of knowledge of the offer of products in another Member State
- Lack of knowledge of redress procedures in another Member State
- Cost of servicing clients cross-border (without local infrastructure)
- No EU passport available
- Other
- Don't know / no opinion / not relevant

Please specify what other barriers can be overcome in the future by digitalisation and innovation in the FinTech sector:

CFA Institute believes that several challenges related to cross-border financial services can be overcome with the developments in digitalisation and in the FinTech sector. For example, we support the European Commission's proposal to create a digital database for all European Union (EU) prospectuses. This database would be available to potential investors across the globe free of charge, and potentially maintained by the European Securities and Markets Authority (ESMA). This development would help remove the barrier identified in the question relating to lack of knowledge of the offer of products in another Member State.

In particular, we believe the financial services industry will increasingly use so-called "robo advisers". For simplicity, we define robo-advisers as those advisers that exclusively utilise automated software to provide advice to a client, with no human interaction from the financial services provider's side. We believe the rise of robo-advisers is, in part, driven by regulatory changes to prohibit the funding of investment advice implicitly through commissions. This has left a segment of the market - commonly described as mass affluent investors - somewhat underserved by investment advice because this market segment appears to be unwilling or unable to pay for investment advice upfront. Automated financial advice services can thus help overcome barriers in the retail financial services market by reducing the cost of investment advice, increasing access to products, and removing physical or geographic barriers associated with human advice. The UK Treasury and Financial Conduct Authority recently proposed reforms in order to encourage robo-advisers to fill this 'advice gap'.

CFA Institute conducted a member survey on automation in financial advice and other FinTech issues in February-March 2016. We received 778 responses from our global members who work as investment management professionals. Our survey of our members offers important confirmation of some of the potential benefits of automated financial advice. Key findings include:

- 70% of survey respondents think mass affluent investors will be positively affected by automated financial advice tools, which is consistent

with the anecdotal observation of robo-advisers targeting the lower-end passive investment market. Interestingly, the survey responses suggest that high net worth, ultra-high net worth, and institutional investors will not be affected by automated financial advice tools. The proportion of respondents answering 'not affected' seems to increase with the wealth of the hypothetical investor (46% for high net worth, 71% for ultra-high net worth).

- The implication is that the tailored nature of financial advice to these market segments is not as easily amenable to standardized automation tools. This is reflected in the fact that 67-70% of respondents thought institutional and ultra-high net worth investors would not see financial automation tools replace human advisers at all while 88% of respondents thought mass affluent investors would somewhat or entirely replace human advisers with automated services.

- An overwhelming 89% of survey respondents think that automated financial advice will have a positive impact on costs for consumers (that is, lowering the costs). 62% think access to advice will be improved and 55% think that product choice will increase. However, the quality of service is predicted by 47% of respondents to worsen and there is an even split between respondents who think market fraud and mis-selling may or may not get worse.

- Finally, 54% of respondents believed that asset management would be the sector most influenced by financial advice tools. This likely reflects the extent of market penetration and awareness achieved by robo-advisors since banking (16%), securities (12%) and insurance (8%) each received a far lower response. Interestingly, EU respondents put relatively greater weight on banking (24%) relative to asset management (47%) compared to the global survey population, perhaps reflecting the smaller role played by asset managers in investment decisions compared to the Americas.

#### 4. What can be done to ensure that digitalisation of financial services does not result in increased financial exclusion, in particular of those digitally illiterate?

Please tick all relevant boxes

- Improved access to digital means
- Digital training offered by the financial industry
- Digital training offered by NGOs
- Digital training offered by public authorities
- Other
- Don't know / no opinion / not relevant

#### 5. What should be our approach if the opportunities presented by the growth and spread of digital technologies give rise to new consumer protection risks?

CFA Institute believes that the enforcement and supervision of conduct of business rules are essentially the responsibility of National Competent Authorities (NCAs). At the moment we do not see any need for changing the current rules or adding more regulation or legislation. It should be the

responsibility of regulatory authorities within their existing powers to supervise firms and enforce rules in order to protect investors.

However, if evidence surfaces that material consumer protection risks are found to exist which cannot be adequately mitigated within the scope of existing national regulatory practices, CFA Institute would be supportive of a regulatory review at the European Union level.

## 6. Do customers have access to safe, simple and understandable financial products throughout the European Union?

- Yes  
 No  
 Don't know / no opinion / not relevant

### 6.1 If customers do not have access to safe, simple and understandable financial products throughout the European Union, what could be done to allow this access?

Please tick all relevant boxes

- Product simplification  
 More effective rules on product transparency  
 More effective product oversight by regulators  
 Clear categorisation of products according to their riskiness and complexity  
 Pan-European financial products  
 Other  
 Don't know / no opinion / not relevant

#### 6.1.1 If product simplification is a possible solution to allow this access, please specify if it should be by self-regulation or by regulation or both:

Please tick all relevant boxes

- by self-regulation  
 by regulation

Please specify what else could be done to allow this access:

CFA Institute believes that first and foremost, the financial industry should be responsible for ensuring access to safe, simple and understandable financial products. We believe that high professional standards of ethics, knowledge and competency for investment management professionals help to reduce the risks of mis-selling and ensure that client interests come first. Professional bodies such as CFA Institute have a clear role to play in setting and maintaining the highest standards for the investment industry.

To complement high professional standards, we believe that there is also a role for EU-wide regulation on product governance through conduct of business rules (for example as prescribed in MiFID) and through product disclosure standards. For example, we see a clear economic rationale for the Key

Information Document (KID) as established by the PRIIPs Regulation to ensure product transparency, comprehensibility, and comparability.

However, the removal of past performance information in the PRIIPs KID would be a concerning development for investors. Whilst imperfect, actual performance history, where available, is useful supplementary information for investors as it provides evidence of the ability of the manager to meet its stated investment objective or otherwise. Removing this information in favour of hypothetical or expected performance information alone may deprive investors of decision-useful information. Moreover, there is no evidence to suggest that hypothetical performance information is superior or more reliable than actual past performance data. Further, we believe that retail investors would find it easier to understand and interpret actual performance data than hypothetical data based on probabilistic scenarios. We encourage policymakers to devote further consideration to these issues in the formulation of the technical standards for the PRIIPs KID.

Overall, the combination of high industry standards and production regulation, for example on the PRIIPs KID, should combine to provide the best outcomes for retail investors.

## 7. Is the quality of enforcement of EU retail financial services legislation across the EU a problem for consumer trust and market integration?

- Yes
- No
- Don't know / no opinion / not relevant

### Please explain your answer to question 7:

At the end of 2015, CFA Institute conducted a global study on trust in the investment community and the evolving needs of investors. The final study, *From Trust to Loyalty*, was published in February 2016 and is available at <http://cfa.is/10j1zku>.

The study found out that globally, investors have a slightly more favorable view of the financial services industry than the general population surveyed in the 2016 Edelman Trust Barometer. While only 51% of the general population has a favourable view of the financial services industry, 57% of institutional investors and 61% of retail investors view the industry positively.

Institutional investors, with their complex constituencies and a clear focus on risk management, hold their investment managers to the highest ethical standards, and the most important attribute of a firm for them is that it “acts in an ethical manner in all our interactions” (important to 72% of respondents). This high level of ethical commitment is also demonstrated by having adopted a recognized code of conduct for the industry and never having had regulatory or compliance violations (both important to 68% of respondents).

In addition, CFA Institute conducted a Global Market Sentiment Survey (GMSS) in October 2014. The final GMSS report (available at <http://cfa.is/1Rtbt7e>) was published in 2015.

In the survey, respondents ranked the most serious issues facing global markets as market fraud, such as insider trading (25%, a plurality), and the integrity of financial reporting (24%). Locally, mis-selling by financial advisers is expected to remain an important ethical issue in the respondents' home markets. Concerns about mis-selling in respondents' home markets have gradually decreased from 29% in 2013 and 25% in 2014 to 21% in 2015, although it remains a top concern in many markets.

In addition, our member respondents indicated that improved enforcement of existing laws and regulations (26%), closely followed by improved corporate governance practices (24%), is the regulatory or industry action most needed to improve investor trust in their home markets. Overall, these results suggest that improved regulatory enforcement practices are needed to reduce the incidences of mis-selling and thereby improve investor trust.

## 8. Is there other evidence to be considered or are there other developments that need to be taken into account in relation to cross-border competition and choice in retail financial services?

Please see CFA Institute response to Question 2A on the Capital Markets Union (CMU) initiative, which references a CFA Institute member survey conducted in the spring of 2015. In the member survey, we identified a number of barriers to cross-border competition and choice in retail financial services. The barriers, including challenges related to cross-border funds distribution and the application of the Undertakings for Collective Investment in Transferable Securities (UCITS) Directive, are further presented in our answer to question 10. The CFA Institute White Paper on the CMU addresses these issues in further detail and is available at <http://cfa.is/1Nn0KHP>.

## 3.1 Helping consumers buy products cross-border

### 3.1.1 Knowing what is available

Please refer to section 3.1.1 of the Green paper  to read context information before answering the questions.

## 9. What would be the most appropriate channel to raise consumer awareness about the different retail financial services and insurance products available throughout the Union?

Please tick all relevant boxes

- Independent pan-European comparison websites, including the information on cross-border products
- Information campaigns by regulators

- Information campaigns by consumer organisations
- Marketing campaigns by financial services providers or their associations
- Financial intermediaries empowered to offer cross-border financial products
- Other
- Don't know / no opinion / not relevant

## 10. What more can be done to facilitate cross-border distribution of financial products through intermediaries?

CFA Institute believes that cross-border distribution of financial products could be facilitated by a more even application of the UCITS Directive in the EU Member States. Because the practical application of the UCITS rules and the treatment of UCITS funds differ from Luxembourg to France, for example, cross-border investments can be burdensome.

The national differences concern, for example, registration costs, taxation, and translation requirements for marketing materials. Addressing these issues via harmonising measures is important. CFA Institute also supports improving the visibility and transparency of underlying risks in the context of fund reporting and disclosure rules. Ensuring that the investment opportunity is well understood, easily accessible and tradable, and offers an attractive risk/reward proposition would increase cross-border retail participation in UCITS. There is also potential for an enhanced implementation of the UCITS passporting rules. On the other hand, the introduction of the KIID for UCITS has been a positive step and the roll-out of this document to all packaged retail investment products is an important initiative.

CFA Institute believes that if the above challenges are taken into consideration, the expected revision of the UCITS rules in 2017 could lead to more confidence and certainty when investing outside of the home Member State.

In addition, there are several cultural issues in the EU, such as language differences and home bias when it comes to investing, which may act as a barrier to cross-border distribution of financial products.

Finally, we believe that digitalisation and the potential for a “digital passport” could facilitate the cross-border distribution of financial products across Europe. A digital investment passport could be useful in particular for retail investors, by making investment products accessible and by simplifying the investment process. Some retail investors in the future may prefer digital platforms or advisory services with the backup of telephone support rather than meeting with advisers for personalised advice. We recommend that potential future regulatory developments in this area fully assess the complexity of consumer behaviour to avoid unintended outcomes. CFA Institute believes that if a digital passport is created, adequate measures should also be taken to safeguard the personal data in the passport.

## 11. Is further action necessary to encourage comparability and / or facilitate switching to retail financial services from providers located either in the same or another Member State?

- Yes, at Member State level
- Yes, at EU level
- No
- Don't know / no opinion / not relevant

12. What more can be done at the EU level to tackle the problem of excessive fees charged for cross-border payments (e.g. credit transfers) involving different currencies in the EU?

Please tick all relevant boxes

- Aligning cross-border and domestic fees
- Before every transaction, consumers should be clearly informed what fee they will be charged and for comparison should be presented the fee for national payment
- Before every transaction consumers should explicitly accept the fee they will be charged
- No further action is needed
- Other
- Don't know / no opinion / not relevant

13. In addition to already existing disclosure requirements\*, are there any further actions needed to ensure that consumers know what currency conversion fees they are being charged when they make cross-border transactions?

*\* Articles 59 and 60(3) of the revised Payments Services Directive (PSD2): European Parliament legislative resolution of 8 October 2015 on the proposal for a directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC (COM(2013)0547 – C7-0230/2013 – 2013/0264(COD))*

Please tick all relevant boxes

- No further action is needed
- Before every transaction, consumers should be clearly informed what conversion fee they will be charged and for comparison should be presented the average market conversion fee (e.g. provided by the European Central Bank)
- Before every transaction consumers should explicitly accept the conversion fee they will be charged
- Other
- Don't know / no opinion / not relevant

### 3.1.2 Accessing financial services from anywhere in Europe

Please [refer to section 3.1.2 of the Green paper](#)  to read context information before answering the questions.

14. What can be done to limit unjustified discrimination on the grounds of residence in the retail financial sector including insurance?

15. What can be done at the EU level to facilitate the portability of retail financial products – for example, life insurance and private health insurance?

Please tick all relevant boxes

- Prohibit insurance firms from geographically limiting cover to the country where the policy-holder is living
- Encourage insurance firm to sell insurance products with wide geographical coverage
- Other
- Don't know / no opinion / not relevant

16. What can be done at the EU level to facilitate access for service providers to mandatory professional indemnity insurance and its cross-border recognition?

### 3.1.3 Having trust and confidence to benefit from opportunities elsewhere in Europe

Please refer to [section 3.1.3 of the Green paper](#)  to read context information before answering the questions.

17. Is further action at the EU level needed to improve the transparency and comparability of financial products (particularly by means of digital solutions) to strengthen consumer trust?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 17:

CFA Institute believes that the full implementation of the packaged retail and insurance-based investment products (PRIIPs) Key Information Document (KID) in the Member States will improve the transparency and comparability of financial products in the EU. We would also be supportive of the inclusion of past performance in the KID, as opposed to only including predicted future performance of the investment product. Beyond the implementation of existing regulations, we do not foresee the need for further initiatives at this stage.

18. Should any measures be taken to increase consumer awareness of FIN-NET\* and its effectiveness in the context of the Alternative Dispute Resolution Directive's implementation?

*\* FIN-NET is a financial dispute resolution network of national out-of-court complaint schemes in the European Economic Area countries that handle disputes between consumers and financial services providers*

- Yes  
 No  
 Don't know / no opinion / not relevant

18.1 If measures should be taken to increase consumer awareness of FIN-NET and its effectiveness in the context of the Alternative Dispute Resolution Directive's implementation, what of the following could be done to ensure the above?

Please tick all relevant boxes

- Better inform consumers about the availability of out-of-court settlement schemes for cross-border disputes  
 Provide out-of-court settlement schemes with effective means to solve consumers' cross-border problems  
 Ensure that out-of-court settlement schemes operate according to the same rules and offer equally effective means to help consumers across the EU  
 Ensure that out-of-court settlement schemes operate independently from the financial industry  
 Other  
 Don't know / no opinion / not relevant

Please specify what else could be done to increase consumer awareness of FIN-NET and its effectiveness in the context of the Alternative Dispute Resolution Directive's implementation:

CFA Institute published a study on investor redress in retail investment markets in August 2014 (available at: <http://cfa.is/1RxoU6M> ). The report explores investor redress based on a survey of best practices and regulatory frameworks in Europe, Asia, and the Americas. It examines specific redress schemes set up in instances of widespread investor detriment and offers policy recommendations to increase the availability and quality of redress mechanisms in retail financial markets.

In the study, CFA Institute notes that the role of FIN-NET could be strengthened with a formal mandate to increase the information available for both participating and nonparticipating Alternative Dispute Resolution (ADR) schemes in a manner that allows for meaningful comparison across schemes and jurisdictions. For this purpose, FIN-NET could deliver minimum standards regarding reporting and disclosure for ADR schemes and periodically compile and compare available information.

FIN-NET could also be further strengthened by increasing the number of languages in which the service is available and staffing a permanent secretariat with the capacity to monitor the functioning of ADR schemes across the EU. Moreover, FIN-NET could be tasked with developing the ODR platform for

disputes arising in retail investment and financial markets, whether online or offline.

19. Do consumers have adequate access to financial compensation in the case of mis-selling of retail financial products and insurance?

- Yes
- No
- Don't know / no opinion / not relevant

19.1 If consumers do not have adequate access to financial compensation in the case of mis-selling of retail financial products and insurance, what could be done to ensure this is the case?

Please tick all relevant boxes

- Improved access to out-of-court collective redress procedures
- Improved access to class actions
- Other
- Don't know / no opinion / not relevant

Please specify what else could be done to ensure that consumers have adequate access to financial compensation in the case of mis-selling of retail financial products and insurance:

CFA Institute study on investor redress in retail investment markets (available at <http://cfa.is/1RxoU6M>) points out the importance of effective redress mechanisms to increase investor trust and participation in retail investment markets – at a time when individuals increasingly need to rely on private solutions to cater to such major future needs as retirement. In the study, CFA Institute recommends the introduction of Alternative Dispute Resolution (ADR) schemes with compulsory jurisdiction over financial service providers and provides recommendations on how to improve Directive 2013/11/EU.

Directive 2013/11/EU addresses the quality of ADR schemes and their formal availability. However, it does not make participation in ADR compulsory for financial service providers or the outcome of ADR binding on any of the parties to a dispute. In many Member States, ADR schemes are available but very rarely used because of a lack of awareness among consumers and a lack of commitment by financial service providers to participate in ADR schemes. Directive 2014/65/EU (MiFID II) requires investment firms to adhere to an ADR scheme for the out-of-court resolution of disputes. This requirement should be extended to all sectors of retail financial services.

When it comes to applying Directive 2013/11/EU to retail investment services, three elements should be further specified to account for the specificities of this market sector: (1) the definition of “consumer”, which may inadvertently exclude some small retail investors, (2) the absence of any requirements regarding expertise in the field of the dispute, and (3) the responsibilities of originators and distributors.

The Directive defines “consumer” as “any natural person who is acting for purposes that are outside his trade, business, craft, or profession”. In the context of investment services, it would be more appropriate to speak of “retail” investors. However, the concept of “retail client” is not explicitly defined by EU legislation; instead, it is taken to mean a client that is not a “professional” client.

Accordingly, when applying Directive 2013/11/EU to investment markets, the concept of “consumer” will need to be further developed. For instance, in the United Kingdom, access to the Financial Ombudsman Service is open to individual consumers, micro-enterprises (fewer than 10 employees and turnover or balance sheet under €2 million), charities with annual income under £1 million, and trusts under £1 million.

Directive 2013/11/EU also requires ADR agents to possess knowledge and skills in the resolution of consumer disputes but not necessarily any expertise in the field of the dispute. In effect, retail investment products and services can adopt relatively complex and innovative structures, which would be difficult to understand for ADR schemes without specific expertise in this area. The conduct-of-business rules, applicable to the origination and distribution of these products, are sometimes also relatively complex and subject to frequent revisions. Accordingly, it would be appropriate to require ADR agents to have specific knowledge in retail investment services and their regulatory frameworks.

In addition, the Directive defines “traders” as any person or entity who is acting for purposes of his business or profession. In the market for financial products and services, the concept of “trader” would hence encompass originators, distributors, and other service providers. The organisation of ADR schemes in retail financial markets should account for the different responsibilities falling on each intermediary while facilitating a single contact point for consumers seeking to resolve a dispute.

Uniform standards of disclosure regarding the characteristics and operation of ADR schemes are essential to raise consumer awareness and increase the accountability of ADR schemes in Europe. Directive 2013/11/EU provides a number of transparency obligations, including aggregate disclosure of the outcomes of ADR. This information could be made easily comparable across schemes and jurisdictions to monitor the differences in the quality of ADR schemes and the extent to which consumers can effectively rely on them in each market sector. To promote the adoption of more efficient procedures and organisational structures, the disclosure obligations under the Directive could extend to the total costs of operating an ADR scheme per dispute solved.

From the point of view of the end user of financial services, Directive 2013/11/EU requires service providers to give information about ADR at the point of sale only if they are obliged or have committed to participate in ADR. CFA Institute would recommend including this information in standardised pre-contractual information, such as the key information document (KID) for packaged retail and insurance-based investment products (PRIIPs). We also recommend stating when the provider has not joined any ADR scheme.

20. Is action needed to ensure that victims of car accidents are covered by guarantee funds from other Member States in case the insurance company becomes insolvent?

- Yes
- No
- Don't know / no opinion / not relevant

21. What further measures could be taken to enhance transparency about ancillary insurance products and to ensure that consumers can make well-informed decisions to purchase these products?

21.1 With respect to the car rental sector, are specific measures needed with regard to add-on products?

- Yes
- No
- Don't know / no opinion / not relevant

## 3.2 Creating new market opportunities for suppliers

### 3.2.1 Meeting the challenges and opportunities presented by digitalisation

Please [refer to section 3.2.1 of the Green paper](#)  to read context information before answering the questions.

22. What can be done at the EU level to support firms in creating and providing innovative financial digital services across Europe, with appropriate levels of security and consumer protection?

CFA Institute believes that innovative financial digital services and an effective use of technology has the potential of bringing down costs in financial services and opening up access to products and markets. We are broadly supportive of these developments. However, at this point we do not foresee any means by which the EU should support innovative fintech companies via legislative or regulatory developments. We believe that the industry should be left to develop on its own without undue regulatory burden at this stage.

23. Is further action needed to improve the application of European Anti-Money Laundering legislation, particularly to ensure that service providers can identify customers at a distance, whilst maintaining the standards of the current framework?

- Yes
- No
- Don't know / no opinion / not relevant

24. Is further action necessary to promote the uptake and use of e-ID and e-signatures in retail financial services, including as regards security standards?

- Yes
- No
- Don't know / no opinion / not relevant

25. In your opinion, what kind of data is necessary for credit-worthiness assessments?

26. Does the increased use of personal financial and non-financial data by firms (including traditionally non-financial firms) require further action to facilitate provision of services or ensure consumer protection?

- Yes, at Member State level
- Yes, at EU level
- No
- Don't know / no opinion / not relevant

27. Should requirements about the form, content or accessibility of insurance claims histories be strengthened (for instance in relation to period covered or content) to ensure that firms are able to provide services cross-border?

- Yes
- No
- Don't know / no opinion / not relevant

28. Is further action necessary to support firms in providing post-contractual services in another Member State without a subsidiary or branch office?

- Yes, at Member State level
- Yes, at EU level
- No
- Don't know / no opinion / not relevant

29. Is further action necessary to encourage lenders to provide mortgage or loans cross-border?

- Yes
- No
- Don't know / no opinion / not relevant

30. Is action necessary at the EU level to make practical assistance available from Member State governments or national competent authorities (e.g. through 'one-stop-shops') in order to facilitate cross-border sales of financial services, particularly for innovative firms or products?

- Yes
- No
- Don't know / no opinion / not relevant

31. What steps would be most helpful to make it easy for businesses to take advantage of the freedom of establishment or the freedom of provision of services for innovative products (such as streamlined cooperation between home and host supervisors)?

CFA Institute believes that further steps could be taken to ensure an even application of the Alternative Investment Fund Managers Directive (AIFMD) and the Undertakings for the Collective Investment in Transferable Securities (UCITS) Directive rules in the EU. Currently, the laws have been applied unevenly in the Member States. There are duplicative and additional rules for example on the requirement to appoint a local depository, and on authorisation of ancillary services between home and host supervisors when passporting services. These rules can act as a barrier to cross-border investments.

32. For which retail financial services products might standardisation or opt-in regimes be most effective in overcoming differences in the legislation of Member States?

Please tick all relevant boxes

- Life insurance (This work would build on existing EIOPA research on the Pan-European Personal Pension product)
- Mortgage
- Other
- None
- Don't know / no opinion / not relevant

33. Is further action necessary at the EU level in relation to the 'location of risk' principle in insurance legislation and to clarify rules on 'general good' in the insurance sector?

- Yes
- No
- Don't know / no opinion / not relevant

34. Please provide any additional comments in the box below:

*5000 character(s) maximum*

#### Useful links

Details of the Green paper ([http://ec.europa.eu/finance/consultations/2015/retail-financial-services/index\\_en.htm](http://ec.europa.eu/finance/consultations/2015/retail-financial-services/index_en.htm))

Green paper document (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:630:FIN>)

Specific privacy statement

([http://ec.europa.eu/finance/consultations/2015/retail-financial-services/docs/privacy-statement\\_en.pdf](http://ec.europa.eu/finance/consultations/2015/retail-financial-services/docs/privacy-statement_en.pdf))

More on the Transparency register (<http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en>)

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#### Contact

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