

## **ESMA's call for evidence on the European Commission mandate on certain aspects relating to retail investor protection**

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#### **1.- Target participants**

This document is primarily of interest to national competent authorities, investors and firms that are subject to Directive 2014/65/EU (MiFID II) and to Regulation 1286/2014/EU (PRIIPs). Due to its focus on investor protection issues, the paper is addressed to investors and consumer organisations, to investment firms and credit institutions providing investment services and carrying on investment activities and to manufacturers of PRIIPs, as well as to any relevant trade association.

#### **2. - Information Note**

In the September 2020 new Capital Markets Union Action Plan, the European Commission announced its intention to publish a strategy for retail investors in Europe in the first half of 2022. To gather pieces of evidence, in May 2021 the Commission launched a public consultation on a wide range of aspects related to retail investor protection. On 27 July 2021, the Commission submitted a request for advice to ESMA asking the latter to assist the Commission in the development of its strategy and to make appropriate adjustments to the legislative framework. The report must be submitted to the Commission by 30 April 2022.

Section 2 of this paper sets out the various topics included in the ESMA Call for evidence. Specifically, the Commission has requested ESMA's opinion on the following issues:

**Disclosure of information:** identification of any significant overlaps, gaps, redundancies and inconsistencies across investor protection legislation that might have a detrimental effect on investors (i.e., which might confuse or hamper decision-making or comparability) in addition to those already identified and addressed by the recent PRIIPs level 2 work, how the different legal frameworks fit together and options as to how to remedy any identified shortcomings. ESMA is also invited to reflect on how the rules work from a retail investor perspective, in particular on whether they ensure that consumers can make informed choices, avoid information overload and overly complex information while ensuring investor protection.

**Digital disclosures:** an assessment of how regulatory disclosures and communications can work best for consumers in a digital, and in particular smartphone, age, and proposed options as to how existing rules might be adapted, such as allowing layered information.

**Digital tools and channels:** an assessment of risks and opportunities with respect to retail investing stemming from the increasing availability of digital tools and the increasing levels of direct investor participation, in particular via online trading platforms and robo-advisors. ESMA is invited to reflect on the appropriateness of the

current regulatory requirements, with a focus on the efficiency of minimum safeguards such as best execution requirements and risk warnings provided to clients (e.g., as in the GameStop case). ESMA is also invited to explore whether and how far value chains should be 'opened' up by the sharing of specific investor data amongst investment firms and third-party providers, and how far new markets for services, such as advice via platforms, might be expected to develop, bearing in mind, on the one hand, the need to protect investor rights, but also to reduce costs and allow for innovation in products and services.

Annex I contains all the questions set out in the above-mentioned paper.

ESMA shall consider the responses it receives to this Call for evidence and will finalise the draft technical advice for submission to the Commission. Furthermore, ESMA shall hold a public hearing in Q4 2021 and registration for the hearing shall be available in the relevant section of the ESMA website in due course.

### **3.- Submission of comments**

The deadline for submitting comments is **2 January 2022**.

Respondents may send their comments through ESMA's website: [www.esma.europa.eu](http://www.esma.europa.eu). Both the paper of this consultation and the response form are available in the section [\*Consultations\*](#) (place the cursor on the word to obtain the link).

Likewise, please send a copy of your answers to the CNMV to the following email address: [documentosinternacional@cnmv.es](mailto:documentosinternacional@cnmv.es)

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