

# The Directive on Distance Marketing of Consumer Financial Services: open public consultation

Fields marked with \* are mandatory.

## Introduction

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Directive [2002/65/EC](#) on Distance Marketing of Consumer Financial Services ('Directive') lays down rules on three key areas (pre-contractual information; right of withdrawal; ban of unsolicited services) concerning the distance marketing of consumer financial services. Any service of a banking, credit, mortgage, insurance, personal pension, investment or payment nature falls under the scope of Directive whenever the financial service is purchased at a distance.

The Directive aims at promoting the free movement of financial services in the single market by harmonising consumer protection rules governing this area. The Directive sets out a list of information items concerning the financial service that the consumer should receive before the distance contract is concluded.

The Directive applies horizontally across all EU legislation in the field of financial services, as long as the product-specific legislation (e.g. Consumer Credit Directive or Mortgage Credit Directive) or horizontal legislation (e.g. the General Data Protection Regulation) does not provide specific and more detailed rules. In this regard, the Directive is considered to contain a 'safety net', in the sense that in the absence of present or future rules regulating the issues covered by the Directive, the latter will apply. Whereas the Directive had clear value added when it entered into force, many of its substantial elements have been taken over by sectoral legislation that has been adopted afterwards, e.g. in the context and aftermath of the financial crisis.

In the 2017 [EC Consumer Finance Action Plan](#), the Commission undertook to monitor the distance selling market of retail financial services in order to identify the potential consumer risks and business opportunities in this market and, on that basis, decide on the need to amend distance-selling requirements. In this context, a behavioural study was conducted: [Behavioural Study on the digitalisation of the marketing and distance selling of retail financial services](#). On the basis of the Commission's [2019 Work Programme](#), the Commission launched an evaluation of the Directive. The [evaluation](#) found that the Directive has been partially effective in increasing consumer protection and is still of limited effectiveness in promoting the cross border delivery of financial services. While the Directive's objectives are still relevant, it is unclear to what extent it contributes to address the current challenges consumers face when purchasing a financial service at distance i.e. online or off premises. In particular, it found that digitalisation exacerbated some aspects not fully addressed by the Directive.

The Adjusted Commission 2020 Work Programme listed the Directive as subject to a "regulatory fitness"

exercise. In this context, the Commission will carry out an impact assessment to see whether and if so, how, to revise the Directive.

This public consultation is an opportunity for consumers, retail financial services professionals, national authorities and any other interested stakeholders to give their opinions on how they think the Directive is functioning. The results of this consultation will help the Commission when drafting the Impact Assessment and assessing the Directive.

The consultation consists of two short questionnaires. The first (set out in Part I) is aimed at the general public. The second (set out in Part II) is for other stakeholders such as associations, authorities and financial services providers.

The public consultation will be available in all 24 official languages of the EU. Shortly after the close of the consultation, the Commission will publish a summary of the contributions received.

## About you

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### \* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak

- Slovenian
- Spanish
- Swedish

\* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

\* First name

VIRGINIA

\* Surname

FUENTES

\* Email (this won't be published)

v.fuentes@asufin.com

\* Organisation name

*255 character(s) maximum*

ASUFIN

\* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)

- Large (250 or more)

## Transparency register number

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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## \* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands

- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
  
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
  
- Burkina Faso
- Burundi
  
- Cambodia
  
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
  
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
  
- Grenada
- Guadeloupe
  
- Guam
  
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
  
- Guyana
  
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
  
- Hungary
  
- Iceland
- India
- Indonesia
- Iran
  
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
  
- Namibia
- Nauru
  
- Nepal
  
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
  
- Niger
  
- Nigeria
- Niue
  
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
  
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
  
- Syria
  
- Taiwan
- Tajikistan
- Tanzania
- Thailand
  
- The Gambia
  
- Timor-Leste
- Togo
  
- Tokelau
- Tonga
  
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands

- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena  
Ascension and  
Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States  
Minor Outlying  
Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and  
Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

## \* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

**Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

## Part I: General questions

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**If you are not replying as a member of the general public, please go to Part II.**

In this part of the questionnaire, we would like you to share your experience of buying retail financial services such as consumer loans, insurance and bank accounts using means of distance communication such as the internet, telephone or postal services. This part of the questionnaire does not cover face-to-face interactions with a financial services provider.

**1. Have you bought one or more of the below financial services by means of distance communication (e.g. through the internet by using your computer /smartphone/tablet, or through the telephone or through postal service) in the past 5 years?**

	Yes	No
Consumer credits (including credit cards)	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance, etc.)	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input type="radio"/>

Payment services (such as money transfer services)	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input type="radio"/>

**2a.** If you bought one or more of the below financial services by means of distance communication in the past 5 years, how satisfied were you with the information (e.g. information on the identity of the service provider and on the product/service, information on your rights) received before you concluded the contact?

	Very Satisfied	Satisfied	Average	Not Satisfied
Consumer credits (including credit cards)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply if you were dissatisfied with the information provided prior to the purchase of the financial service

**2b.** In your opinion, would your experience of contracting any of the financial services mentioned above have been smoother if (5=completely agree, 1=totally disagree):

	5 (Totally Agree)	4 (Agree)	3 (Neutral)	2 (Disagree)	1 (Totally Disagree)
The pre-contractual information was adapted to your device (e.g. the information would fit into your smartphone)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The main information on the financial service provided at pre-contractual stage would be visible at a glance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



The pre-contractual information provided by different suppliers would be provided side-by-side or through a comparison website	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The pre-contractual information contained certain key information which highlighted in a prominent way (e.g. fees, charges)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Additional information would have been presented through the use of hyperlinks or sent separately e.g. in a pdf via email	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The pre-contractual information would have used simpler and more straightforward language	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**3a.** The Directive grants, for certain financial services a right of withdrawal to the consumer. If you bought one or more of the below financial services by means of distance communication in the past 5 years, how often, if ever, have you exercised your right of withdrawal?

	More than once	Once	Never
Consumer credits (including credit cards)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Certain insurance products (e.g. car or home insurance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**3b.** Would the right of withdrawal be easier to use if:

	Yes	No	Don't know
A reminder is sent to the consumers shortly (e.g. 3 days) before it expires	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A withdrawal form is provided whenever a financial service contract is concluded	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is already easy to use and thus, no additional requirement is needed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**4.** The Directive exempts the consumer from any obligation in the event of unsolicited supplies (e.g. you are given a credit even though you did not request it). In the past five years, how often, if ever, have you been provided, without your request, with any of the below financial services?

	More than once	Once	Never
Consumer credits (including credit cards)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance, etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain the outcome if you were supplied with any of the above financial service in an unsolicited manner:

**5.** If you purchased your financial service by means of distance communication, which of the below was/were the decisive factor(s) to conclude the contract at distance rather than in a shop or office?

*at most 3 choice(s)*

- It allows me to access offers from all over the European Union
- It allows me to access cheaper offers
- It allows me to compare offers more easily
- It allows me to access services that are better adapted to my needs
- It allows me to take more time to review the offers
- It means I can access the service 24 hours a day
- Other

## Part II: Technical questions on the specific value added of the provisions of the Directive compared to other legal acts

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This part is aimed at obtaining replies from experts and/or practitioners in the field (financial services providers, associations, authorities, academics). If you are a member of the general public, replies to Part I are enough and you do not need to reply to the forthcoming questions.

**1. Considering the overlap with sector specific legislation, based on your experience, how often are the articles on pre-contractual information stemming from the Directive applied or enforced with regard to the following financial services?**

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance etc.)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Personal pension products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain how the articles on pre-contractual information stemming from the Directive are still applied or enforced, providing the situation when it was applied or enforced:

**2. Considering the overlap with sector specific legislation, based on your experience, how often are the articles on the right of withdrawal stemming from the Directive applied or enforced with regard to the following financial services?**

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance etc.)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain how the right of withdrawal stemming from the Directive is still applied or enforced, providing the situation when it was applied or enforced:

**3.** Considering the overlap with sector specific legislation, based on your experience, how often is the article on unsolicited services of the Directive applied or enforced with regard to the following financial services?

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance etc.)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain how the article on unsolicited services stemming from the Directive is still applied or enforced, providing the situation when it was applied or enforced:

**4.** Considering the overlap with sector specific legislation, based on your experience, how often is the article on unsolicited communication of the Directive applied or enforced with regard to the following financial services?

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain how the article on unsolicited communication established by the Directive is still applied or enforced, providing the situation when it was applied or enforced:

**5a.** How useful is the ‘safety net’ feature of the Directive (i.e. the application of the Directive in those instances when new products appear on the market and are not yet subject to specific regulation and when the product specific legislation does not cover, or does not cover sufficiently, the rules established by the Directive ) for the following financial services?

	Very useful	Useful	Not useful	Irrelevant
Consumer credits (including credit cards)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car, home insurance etc.)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares, bonds or funds)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (such as money transfer services)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain

The DMFSD "safety net" is useful for all types of retail financial services products sold online that are not yet covered by product-specific legislation as they are new and have been created afterwards. For example, payday loans, loans between individuals, interest-free credit and "buy now, pay later" schemes entered the market after the introduction of the Consumer Credit Directive (CCD).

The DMFSD has important consumer protection elements e.g. the DMFSD ensures that consumers receive pre-contractual information about a product. The right to pre-contractual information in the WFDPSD is very important due to an increase in the consumer's online purchase of products.

We consider it essential to receive pre-contractual information before purchasing certain financial products at a distance, such as consumer credit, savings accounts, payment accounts, insurance, mortgages, etc. A clear example of this is in the area of insurance. Consumers of insurance marketed online would not be able to benefit from the right of withdrawal without the DMFSD, and that the IDD and PRIIPS do not contain such a provision.

**5b.** Can you provide concrete examples when you applied the rules of the Directive since they went beyond the rules covered by specific financial services legislation (e.g. the right of withdrawal for payment accounts contracted at a distance)?

**5c.** Can you provide concrete examples when you applied the rules of the Directive for products which are exempt from the product specific legislation (e.g. payday loans, which are a type of credit agreement, contracted at a distance and are below EUR 200)?

**5d.** Can you provide concrete examples when you applied the rules of the Directive for new products that appeared on the market before product-specific legislation was enacted (e.g. virtual currencies bought at a distance)?

**6.** Has the application and enforcement of the articles of the Directive progressively diminished due to the entry into application of subsequent product or horizontal legislation?

- Yes
- No
- Don't know

Please explain

**7.** Would the repeal of the Directive lead to:

	Yes	No	Don't know
Regulatory gaps leading to an unlevel playing field (e.g. undue competitive advantage for financial providers in Member States that would provide a less protective framework)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lower consumer protection in those areas which are not as yet covered by product specific or horizontal legislation (e.g. pre-contractual information for consumer loans below EUR 200)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increased difficulties for cross-border trade	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
A reduction of administrative burdens for Member States (e.g. reduction of costs for supervision of the obligations stemming from the Directive)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
A reduction of regulatory costs for financial service providers (e.g. less compliance costs related to pre-contractual information obligations stemming from the Directive)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
None of the above since in practice the Directive scope of application has lost most of its relevance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain

Asufin urges the European Commission not to repeal the DMFSD, but to revise it, in order to ensure a high level of consumer protection in the face of the increasing digitalisation of the financial services sector. If the DMFSD were to be repealed, regulatory loopholes would emerge.

New products are increasingly appearing on the online financial products market that are not yet subject to

specific regulation. Not having a minimum level of protection for consumers buying these products would leave consumers exposed to consumer protection risks.

In order for the DMFSD to be more effective, it should be revised in some areas:

- Right of withdrawal, Given the importance for consumers, the DMFSD should ensure that withdrawal is a simple process and should be informed on how to proceed and provide the consumer with a simple form to fill in.

- Prohibition on unsolicited services

Financial service providers are increasingly using practices such as pre-ticked boxes to receive consumer consent without the consumer being aware of it. Pre-ticked boxes often result in consumers purchasing financial services products that they may not need or that may not be right for them.

**8.** The Directive bans unsolicited services and communications from suppliers when such services or communications lack the consumer's consent. However, over time, through the introduction of product specific and horizontal specific legislation, in particular Directive 2002/58/EC (e-Privacy), Directive 2005/29/EC (unfair business-to-consumer practices) and Regulation (EU) 2016/679 (General Data Protection Regulation), the bans established by the Directive have lost their relevance. Should the revision of the Directive lead to the repeal of the current articles (Articles 9 & 10) concerning unsolicited supplies and unsolicited communications?

- Yes
- No
- Don't know

Please explain

Asufin believes that the revision of the Directive should not lead to the repeal of the articles on unsolicited supplies and communications.

Financial service providers are increasingly using novel practices to obtain consumers' consent, for example, by pre-ticking boxes to receive communications or purchase products without consumers' conscious desire to do so.

Consent must be freely given by the data subject and may not be subject to a specific condition or be used in cases where there is a clear imbalance between the data subject and the controller.

The DMFSD strengthens the non-financial services specific horizontal legislation on unsolicited services and communications and clarifies how it applies to the online financial services market.

## Contact

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