Bundesverband der Deutschen Volksbanken und Raiffeisenbanken e. V.
Bundesverband deutscher Banken e. V.
Bundesverband Öffentlicher Banken Deutschlands e. V.
Deutscher Sparkassen- und Giroverband e. V.
Verband deutscher Pfandbriefbanken e. V.

Die Deutsche Kreditwirtschaft

# EU Commission proposals to simplify the RIS – bolder steps or withdrawal required

Contact:
Martin Pietzner
Associate Director
Telephone: +49 30 1663- 1554
E-mail: martin.pietzner@bdb.de

Berlin 9 May 2025

Coordinator:
Bundesverband deutscher Banken e.V.
(Association of German Banks)
Burgstraße 28 10178 Berlin | Germany
Telephone: +49 30 1663-0
https://die-dk.de

## General remarks

**The proposals in the European Commission's non-paper do not sufficiently simplify the Retail Investment Strategy (RIS). The entire initiative should therefore be reviewed.**

We certainly welcome the fact that the European Commission has submitted proposals to simplify the Retail Investment Strategy (RIS). This means there is finally more of a focus on the original aim of the RIS, which was to encourage more retail investors to invest in the capital market. The participation of retail investors in establishing a European Savings and Investment Union (SIU) is vital. The trilogue parties must focus on this when negotiating the RIS.

The European Commission's simplification proposals are far from sufficient.

In its current form, the RIS threatens to burden the securities business with new and extensive bureaucratic hurdles with the result that retail investors will continue to be excluded from the capital market or will seek to invest elsewhere. This clearly also contradicts the SIU's current objective of focussing more on the client's interests and reducing regulatory burdens in the securities business.

In general, it is much easier to avoid new bureaucracy - and many RIS proposals achieve precisely the opposite - than it is to remove existing bureaucracy. The European Commission's proposed simplifications do not go far enough to rectify these issues. The draft is often mired in technical details and fails to make fundamental simplifications and, in particular, deletions. There is an urgent need here for further adjustments and greater streamlining.

If no significant improvements are achieved on this in the trilogue, there should be no hesitation in calling the RIS as a whole into question and withdrawing it completely so as not to jeopardise the primary objectives of reducing bureaucracy and the SIU strategy.

### Our summary of the assessment in chronological order:

- **Value for Money:** Despite the proposed simplifications, the Value for Money (VfM) approach remains a prime example of excessive bureaucracy with no clear benefits for retail investors and should therefore be rejected.
- **Client categorisation:** We welcome the proposal to exempt professional clients from certain bureaucratic requirements. However, looking at the RIS as a whole, these proposals fall short because the majority of clients are retail investors.
- **Best interest test:** The proposed simplifications do not go far enough. This is because the best interest test remains essentially the same, even though the European Commission itself recognises that the obligation to act in the best interests of the client is already enshrined as a key principle in MiFID.

- **Appropriateness assessment:** The simplification proposals do not go far enough because the enhancement to the appropriateness assessment is to be retained. Rather than simplifying the process appreciably, it actually increases the effort for clients and investment firms without any recognisable benefit. Enhancing the appropriateness assessment would ultimately be tantamount to taking away a client's freedom to decide for themselves in non-advised business.
- **Inducement test:** We reject the Council's proposed new inducement test. The European Commission has already conceded that many elements of the test are already included in the current rules. We welcome the fact that the European Commission has no objections to removing the inducement test. As we understand it, it therefore supports the position of the EU Parliament, which sees no need for a complex new test.
- **Disclosure requirements:** The European Commission's proposed simplifications to disclosure requirements are not sufficient to reduce bureaucracy. The proposed simplifications are marginal at best and are certainly not proportionate to the massive increase in information requirements from the RIS. Clients would receive considerably more information than they currently do, which would only serve to increase the existing information overload.
- **PRIIPs:** The European Commission's simplification proposals on the PRIIPs regulation are only partly headed in the right direction.
- **Implementation deadlines:** These should only start once level 2 requirements have been published.

In the following, we assess the European Commission's proposals in detail and outline where key simplifications are missing.

## Value for Money

**Despite the proposed simplifications, the Value for Money (VfM) approach remains a prime example of excessive bureaucracy with no clear benefits for retail investors and should therefore be rejected.**

The proposed simplifications simply **do not go far enough overall** and are still too vague in many areas. We do **welcome** the European Commission's intention **not to introduce cost benchmarks** for investment funds and structured securities. These would constitute a major market intervention and would pose a real risk of price regulation. A value for money approach, the objective of which is to identify outliers, must not lead to unjustified price regulation.

Nonetheless, the **proposed peer group approach would also massively increase the amount of bureaucracy**, as a corresponding methodology set would first have to be developed on level 2, among other things. In addition, many financial products are not directly comparable, particularly in terms of specific product features, meaning that the client benefit of a peer group comparison would be questionable due to its lack of meaningfulness. This is particularly the case since, according to the European Commission's proposal, products from other member states are also to be included in the analysis, which seems unrealistic given the different functionalities, cost structures (e.g. wage differentials) and tax-motivated features in the respective countries.

This **proposal** also does **not clarify** how a **peer group approach** would allow the **large number of financial instruments** for retail clients **to be compared** appropriately and at reasonable cost – retail clients can acquire around two million financial instruments on the German market, for which a PRIIPs KID is required. Our member institutions are of the opinion that standardised European peer group methodologies exist only to a very limited extent for investment funds, but not for structure securities.

In order to avoid the extensive and detailed discussion that would inevitably follow, including on peer group methodology, the **value for money approach should be dispensed with altogether**, which would send a clear signal in terms of reducing bureaucracy.

If, contrary to our position, the value for money approach is to be retained, it is **positive** that, according to the European Commission proposal, the data required to form the peer groups should "mainly" come **from existing reporting obligations** for the sector. This makes sense since we would reject new reporting obligations for investment firms.

Furthermore, **level 1 legislators should define** the **key points** for determining the **peer groups**. Delegating this very practice-relevant aspect completely to level 2 should certainly be avoided. A peer group approach certainly must not lead to a certain share of products being considered too expensive and therefore no longer being sold. This would not be consistent with the goal of identifying outliers. In addition, it should be made clear that the peer group test only relates to products and not to services provided by the distributors.

The proposal to define details of the peer groups at level 2 once again demonstrates the **need to provide for practical implementation deadlines in the RIS**. Without concretisation at level 2, it would not be possible in practice to implement the Value for Money requirements within the implementation deadline proposed by the European Commission for the RIS.

## Investor Journey

### Simplification of client categorisation as professional client

**We welcome the proposal to exempt professional clients from certain bureaucratic requirements. However, looking at the RIS as a whole, these proposals fall short because the majority of clients are retail investors.**

It is **encouraging** that the **framework conditions** for clients who do not automatically qualify as **professional clients** under MiFID rules, but who have the relevant expertise, **are to be improved**. The proposals to broaden and fine-tune the existing criteria and to create targeted exemptions depending on transaction sizes and frequencies are to be welcomed as a first step in the right direction. We have long been in favour of having actual professionals recognised as such in regulatory terms.

However, the share of **clients categorised as professionals** is **usually in the low single-digit percentage range**, even at large investment firms **in Germany** – a figure that is **unlikely to change much** as a result of the proposed changes to the RIS. It should also be noted that not all investment firms have offers or processes especially for professional clients. For business policy reasons and due to the associated complexity of the processes, many investment firms decide to treat all clients as retail clients. In traditional retail business, the proposals, which are appropriate per se, will not therefore result any significant simplifications and, consequently, their contribution to reducing bureaucracy will only be very small.

The **European Commission's proposal** to grant **transaction-related exemptions**, e.g. above the value of €500,000, is **only a simplification in some cases**. Some investment firms certainly might benefit from the approach in specific business fields. Others will not because the simplification would not justify the effort required to build an opt-out solution of this kind for such a small number of transactions. Also, the actual transaction amount is not always known when the consultation takes place.

### Suitability assessment and best interest test

**The proposed simplification does not go far enough. This is because the best interest test remains essentially the same, even though the European Commission itself recognises that the obligation to act in the best interests of the client is already enshrined as a key principle in MiFID.**

The European Commission's proposal to **reconsider** the **best interest test** to the extent that no further **financial instruments without "additional features"** need to be recommended in addition to current bespoke recommendations for the client is a **step in the right direction**.

However, we are critical of the European Commission's strong focus on the **"most cost-efficient" financial instrument** when determining the most suitable instrument as it therefore appears to be adhering to a **purely price-oriented approach**. Such a narrow focus on cost aspects means losing sight of the individual needs, goals and preferences of clients – especially since several products with different qualitative features may be equally suitable for an investor. These differences inevitably lead to different price structures, which is why a pure cost consideration is not a suitable benchmark for product selection. In addition, we have doubts about restricting choice to all suitable products, as in many cases very different products have to be compared. A meaningful comparison based on costs or on special quality features can only be made between very similar (equivalent) products. For these reasons, we continue to be very critical view of the best interest test and are calling for it to be scrapped.

The move to **scrap the standardised report** is the **right** approach. Standardising the content of the suitability and appropriateness report would restrict innovation-driven competition among investment firms and jeopardise individual advisory processes geared to the client. The European Commission rightly recognises that a consultant from another investment firm cannot rely on information provided in advance from third parties. Scrapping the new requirement would serve to prevent unnecessary bureaucracy – even though it does not get rid of existing bureaucracy.

One **positive** aspect is the clarification that in future clients will be able to answer **questions about suitability online** in advance. Despite the intended step towards digitalisation, the actual **time saved** remains **marginal** because the consultant still has to carry out the necessary checks. However, since this is already common practice in some investment firms and is also permissible under regulatory law, this clarification is largely self-evident and not a simplification given the large number of new requirements in the advisory process.

The German Banking Industry Committee firmly **rejects** the option of **not enquiring about the client's knowledge and experience** in the context of **fee-based investment advice**. Such an approach would not be in the client's interests, as it prevents clients from being able to adequately understand the financial instruments being recommended to them and their risks – which is precisely the purpose of such questions. The complexity of a product alone says nothing about its risk or its benefits to the client.

The approach of privileging an "independent advisor" in this area also appears to be misguided. The requirement set out in MIFID to **act** in the "**best interest**" of the client **applies** to both **non-independent** and **independent advisors equally**. It is not clear to what extent the "most cost-effective products" should not have the identical value to clients of "independent advice" as it does for non-independent advice. The incentivising of "independent advice" is politically motivated. However, it also leads to a rule that provides less protection for clients of "independent advice" for reasons that are difficult to understand. Ensuring that clients understand the products recommended to them is also essential when providing independent advice.

We are also **opposed** to further **simplifications** in the context of **fee-based investment advice**, such as the **non-applicability of the best interest test**. Against the background of consistent investor protection, it is difficult to understand why a provider who is paid by the client for their advice should be subject to lower regulatory requirements than an advisor who provides advice free of charge and only receives a commission if a transaction is concluded. Clients today have a wide range of options to access investment services. It should be up to the client to determine which options prevail in the long term and not undesirable legislative incentives that ignore the needs of the client. A level playing field is urgently required here to prevent competitive distortions in favour of certain providers.

## Enhanced requirements in the appropriateness assessment

**The simplification proposals do not go far enough because the enhancement to the appropriateness assessment is to be retained. Rather than simplifying the process appreciably, it actually increases the effort for clients and investment firms without any recognisable benefit. Extending the appropriateness assessment would ultimately be tantamount to taking away a client's freedom to decide for themselves in non-advised business.**

The planned **enhancement of the appropriateness assessment** to include aspects such as ability to bear losses and risk tolerance would turn non-advised services into a kind of "investment advice light" and is therefore **to be rejected**. This conflicts with the interests of those clients that consciously make their own decisions without advice when conducting a transaction. This would have the consequence for providers that their IT processes for non-advised services would have to be expanded considerably, which would involve corresponding additional work and costs without creating any corresponding added value. In addition, the blurring of the boundaries between advised and non-advised services means that the client cannot sufficiently differentiate between these fundamentally different services. This risk of possible confusion has already been occurred in other legal systems and was identified in the course of a survey by supervisory authorities.[1]

In practice, **non-advised services** are primarily aimed at **experienced clients** who invest in financial instruments at their own responsibility, and they are already critical of the regulatory delays in placing orders.[2] The client group being addressed by the European Commission here, which mistakenly obtains non-advised services, should be specifically encouraged to use advised

[1] Cf. Disclosure: Why it shouldn't be the default, Australian Securities and Investments Commission (ASIC) & Dutch Authority for the Financial Markets (AFM), p. 47.

[2] Study by Prof. Dr. Stephan Paul, Ruhr University Bochum: MiFID II/MiFIR/PRIIPs Regulation Impact Study: Effectiveness and Efficiency of New Regulations in the Context of Investor and Consumer Protection, A qualitative/empirical analysis, p. 20: *"The more experienced the client, the more they felt bothered or annoyed..."*

services. Furthermore, strengthening financial education can help to prevent clients from making the wrong decision when it comes to choosing the most appropriate sales channel.

Although we **welcome** the European Commission's proposal to **withdraw ESMA authorisation to standardise warnings in non-advised services**, the resulting **simplification effect** would be **minimal**. Overall, the European Commission's draft would result in a very high cost burden for providers due to the enhancement of the appropriateness assessment. Extending the appropriateness assessment must therefore be avoided at all costs in line with the EU Parliament's proposal.

## Inducement test

**We reject the Council's proposed new inducement test. The European Commission has already conceded that many elements of the test are already included in the current rules. We welcome the fact that the European Commission has no objections to cancelling the inducement test. As we understand it, it therefore supports the position of the EU Parliament, which sees no need for a complex new test.**

The inducement test adds **ten additional criteria** to the current "quality enhancement" requirement, **some of which are vague and non-exhaustive**. The existing requirements for quality enhancement already represent a considerable burden for investment firms – without any tangible added value for investors.

**Retaining** the **inducement test** proposed by the Council would **not contribute to reducing bureaucracy**, but would instead lead to a considerable increase in bureaucracy. And this is irrespective of the fact that, in the European Commission's opinion, this is "only" a back-office assessment, which would possibly have to be implemented as part of the product approval process and therefore need not be performed by the investment firms in advance of every individual product recommendation or transaction. What the European Commission fails to recognise here is that not only do precautions taken at the point of sale generate costs, but so do back-office activities. For example, supply chains are also not checked at the point of sale in the presence of the client, but in advance. Nevertheless, this would result in considerable extra work for businesses, which is also very expensive. It is also unclear how this should be organised in practice.

The **new inducement test should** therefore be **scrapped**. Although the European Commission believes it is important not to fall behind the status quo on the inducement regime, it fails to recognise that reducing bureaucracy can only succeed if existing (but not actually necessary) requirements are also scrapped. The consistent application of the current rules on inducements, including the accompanying disclosure requirements, has not resulted in any cases of misuse. If we are serious about reducing bureaucracy, then we should be scrapping the inducement test altogether.

## Disclosure requirements

**The European Commission's proposed simplifications to MiFID disclosures are not sufficient to reduce bureaucracy. The proposed simplifications are marginal at best and are certainly not proportionate to the massive increase in information requirements from the RIS. Clients would receive considerably more information than they currently do, which would only serve to increase the existing information overload.**

The proposal to make MiFID and IDD disclosures **maximum harmonisation** is **positive**, as is the proposal that member states should refrain from including additional disclosure requirements, including by means of guidance. This would prevent opportunities for national gold-plating.

We **reject** the European Commission's proposal to present **quantitative information** in a form, such as through the use of **graphical representation**. A graphical representation is unnecessary since we cannot see any additional value in it.

### PRIIPs

**The European Commission's simplification proposals on the PRIIPs regulation are only partly headed in the right direction.**

We **welcome** the **removal** of the proposed **sustainability section** in the PRIIPS key information document (KID). This measure would contribute to simplifying and clarifying the document and prevent unnecessary duplicate work, especially considering a review of the Sustainable Finance Disclosure Regulation (SFDR) is planned for the fourth quarter of 2025, which will result in major amendments in the area of sustainability.

The German Banking Industry Committee is **in favour of maintaining the maximum page length of 3 pages** for the PRIIPs KID, **if other innovations** (dashboard etc.) under consideration **are scrapped**. Manufacturers have already reached their limit in terms of space due to the many representation requirements. We welcome keeping the information simple and concise in order to increase its comprehensibility for retail investors and to reduce the administrative burden on manufacturers. However, if additional requirements need to be included in the KID then it would not be possible to maintain the page length of three pages. The number of pages should be increased accordingly (as proposed by the EU Parliament).

We **welcome standardising the format of KIDs in principle**, particularly in order to achieve comparability between the different products. However, enough space should be set aside here for the special features of the different financial products and/or product groups. For example, the fund classification developed by EFAMA, which is referenced in the proposal as a possible standardised KID format, would be a sensible option for funds. However, it would not be fully applicable for other financial products (e.g. structured products).

Finally, it is important to mention that the above **proposals on the PRIIP regulation do almost nothing to avoid bureaucracy**. In order to create simplifications here, other aspects need to brought into the discussion. These include the EU Parliament's proposal to facilitate the provision of KIDs for savings plan clients and the Council's proposed scrapping of the requirement that distributors must also publish the KIDs on their websites in future (in addition to the existing requirement for manufacturers). Both these proposals would relieve burdens and should therefore be included in discussions on simplifications.

## Practical implementation deadlines

**Implementation periods should only start once the level 2 requirements have been published.**

Another important topic related to reducing bureaucracy that is not mentioned in the European Commission's non-paper is implementation deadlines. In order to create planning security for the investment firms at an early stage and to avoid unnecessarily high costs due to short-term extensions to implementation projects, postponing the new requirements due to unrealistically short implementation periods should be avoided. Since the problem is usually delays at the level 2 stage, the EU Parliament's proposal should be followed that **implementation periods** do not begin until **after the level 2 legislation has been published**.