On 23 October 2019, the European Banking Authority (EBA) published an Opinion on disclosure to consumers buying financial services through digital channels under Directive 2002/65/EC concerning the distance marketing of consumer financial services (the Directive).

Although the Directive remains a relevant instrument, an increase in the use of digital channels over the years led the European Commission to reconsider its adequacy. Indeed, when purchasing financial services through digital marketing channels, the consumers do not necessarily have the same access to information via suitable means and in an appropriate time to make an informed decision. The use of digital means of communications tend to result in information that is overly restrictive and, hence, unclear, ambiguous, or misleading.

Thus, this Opinion aims at remedying the deficiencies of the Directive while it is being evaluated and ensuring an equal and enhanced protection of the consumer through physical or distance marketing.

The general recommendations, applicable to any information that is being made available to consumers, focus on the following topics:

- **Scope and consistency of disclosure rules**: the EBA calls for more focus on the presentational aspects of disclosure for digital channels (rules on the form, prominence and timing of disclosure adapted to the specific product/service, the digital channel(s), and the consumer’s device)

- **Timing of disclosure**: a revision of the Directive should be made to spell out requirements for marketing channels at the pre-contractual stage, to verify the consumer has a full understanding of the terms of conditions before proceeding to the purchase

- **Presentation and format**: the information to consumers of a potential agreement that will be concluded via digital means should be concise, focused to serve its intended purpose, and presented in a clear and understandable format
• **Provision of information**: the pre-contractual information should be provided on a durable medium, in a format appropriate to the particular device and type of digital communication channel

• **Accessibility and effectiveness of the information**: a more direct communication between providers and consumers is required and providers should test the information shared with the target market, to assess how the information is understood and used by consumers

• **Monitoring effectiveness**: providers should be required to monitor the design and prominence of relevant disclosures by analyzing consumer behavior.

Moreover, the EBA Opinion introduces the following specific proposals, applicable to **particular stages of information** to be provided:

- Advertisements
- Pre-contractual information
- Right of withdrawal
- Complaint-handling procedures and alternative dispute resolution (ADR)
- Post-sale information.

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