

## EVALUATION ROADMAP

Roadmaps aim to inform citizens and stakeholders about the Commission's work to allow them to provide feedback and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to share any relevant information that they may have.

<b>TITLE OF THE EVALUATION</b>	Evaluation of the Distance Marketing of Financial Services Directive
<b>LEAD DG – RESPONSIBLE UNIT</b>	JUST.E1
<b>INDICATIVE PLANNING (PLANNED START DATE AND COMPLETION DATE)</b>	Planned start date Q4 2018 Planned completion date Q4 2019

**The Roadmap is provided for information purposes only. It does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the document, including its timing, are subject to change.**

### A. Context, purpose and scope of the evaluation

#### Context

The [Distance Marketing of Financial Services Directive](#) (Directive 2002/65/EC) aims at ensuring 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 concerning the financial service and its provider that the consumer should receive before the distance contract is concluded. It also grants, for certain financial services a right of withdrawal of 14 days to the consumer. Finally, the Directive bans services and communications from suppliers that are not solicited nor consented by the consumers.

A [Commission Communication on the review of the Directive](#) was adopted in November 2009. It highlighted the very small size of the distance selling market of consumer financial services across borders and the lack of evidence of consumer problems in this area stemming from incorrect implementation of the Directive. The Communication showed that Member States had made use of the various regulatory options contained in the Directive but concluded that there was no evidence that such a legal diversity had had a direct impact on the low level of cross-border distance marketing of financial services. The Communication highlighted the significant steps being made by the Commission to improve the quality of information in the area of credits and investments and recommended monitoring developments in the market and the application of the Directive, especially in view of the development of e-commerce.

In the [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.

Against this background, and as announced in the [2019 Work Programme](#) of the Commission, the Commission will carry out an evaluation of the Distance Marketing of Financial Services Directive, in line with the Better Regulation Principles. The evaluation is planned to be concluded in 2019.

#### Purpose and scope

Since 2002, the distance marketing of financial services has changed in light of the digitalisation and the commercial practices used online by providers. In parallel, the legal framework for retail financial services has evolved, including through the development of product-specific legislation (in relation to consumer credit, mortgages, insurance, investment products or payment services) or specific consumer protection elements. In this context, it is necessary to evaluate the functioning of the Directive in the EU, including whether the rules of the Distance Marketing of Financial Services Directive are fit for purpose.

The evaluation will assess whether the original objectives have been achieved, how the Directive is functioning from a cost/benefits and burden reduction perspective and simplification and how the Directive works together with other legislation in the field of retail financial services, consumer protection and data protection. The analysis will assess whether the tools of the Directive correspond to original and current needs and its EU added-value.

The evaluation will focus on developments since 2002 and costs and benefits in relation to different stakeholders. Alongside a qualitative analysis, a quantitative assessment of actual costs and benefits including impacts on business, consumers and authorities will also be carried out.

The evaluation will gather evidence regarding the functioning of the Directive in its totality and in particular, regarding the following aspects:

- scope of services covered
- information disclosure
- right of withdrawal
- unsolicited services and communications
- regulatory choices by Member States
- interplay with product-specific legislation in the field of retail financial services, the e-commerce framework and horizontal consumer protection rules.

## **B. Better regulation**

### **Consultation of citizens and stakeholders**

The evaluation will draw on the views and experiences of the general public and the wider stakeholder community (including consumer representatives, local, regional and national authorities, retail financial services providers and intermediaries involved in the distance selling of such services). Views and experiences from stakeholders will be particularly used to assess whether the initial objectives of the Directive are still relevant, whether the Directive has been effective in meeting them, what have been the costs and benefits associated to its implementation and whether the Directive is coherent with the rest of the relevant legislative framework and brings added value.

A public consultation questionnaire will be made available in all EU languages via the Commission's central [public consultations page](#) early 2019 for a minimum period of 12 weeks. Respondents may reply to the public consultation in any of the 24 official EU languages. In parallel, a targeted consultation will also be conducted. The main stakeholders to be consulted include national authorities (including consumer protection bodies) as well as local and regional authorities, retail financial services providers and intermediaries, industry associations and EU-level and national consumer organisations. The public consultation, which will be publicised through the Commission's social media accounts and formal networks, will also be open to other participants having an interest in the issue.

A synopsis report of the consultation will be published on the Commission [website](#), tentatively by September 2019.

### **Data collection and methodology**

While the Commission already has data on infringement cases, complaints, publications and stakeholders' papers, the evaluation will be based on, but not exclusively, the following sources:

- a public consultation
- targeted consultations of relevant stakeholders
- data and recommendations coming from the [Financial Services User Group](#) (FSUG)
- conclusions to be drawn up from the work currently being carried out under Action 12 of the EC Consumer Finance Action Plan
- [2009 Commission Communication on the review of the Directive](#)

The quantification of costs and benefits will be drawn from all above-mentioned sources as well as estimates provided in previous documents. A study commissioned to an external contractor(s) will inform the evaluation of the Directive.