



Plenary sitting

A9-0097/2023

12.4.2023

*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC (COM(2022)0204 – C9-0175/2022 – 2022/0147(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Arba Kokalari

Rapporteur for the opinion of the associated committee pursuant to Rule 57 of the Rules of Procedure
Stéphanie Yon-Courtin, Committee on Economic and Monetary Affairs

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	4
EXPLANATORY STATEMENT	34
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS	36
PROCEDURE – COMMITTEE RESPONSIBLE	57
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	58

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC (COM(2022)0204 – C9-0175/2022 – 2022/0147(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0204),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0175/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the Economic and Social Committee of 21 September 2022¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Economic and Monetary Affairs,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0097/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 3

¹ OJ C xxx, xx.xx.xxxx, p. x.

Text proposed by the Commission

(3) Within the framework of the internal market, in order to safeguard freedom of choice, a high degree of consumer protection in the area of financial services contracts concluded at a distance is required in order to enhance consumer confidence in distance selling.

Amendment

(3) Within the framework of the internal market, in order to safeguard freedom of choice, a high degree of consumer protection in the area of financial services contracts concluded at a distance is required in order to enhance **welfare and** consumer confidence in distance selling.

Amendment 2

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) Ensuring the same high level of consumer protection across the internal market is best achieved through full harmonisation. Full harmonisation is necessary in order to ensure that all consumers in the Union enjoy a high and equivalent level of protection of their interests and to create a well-functioning internal market. Member States should therefore not be allowed to maintain or introduce national provisions other than those laid down in this Directive, with respect to aspects covered by the Directive, unless otherwise provided in this Directive. Where no such harmonised provisions exist, Member States should remain free to maintain or introduce national legislation.

Amendment

(4) Ensuring the same high level of consumer protection across the internal market is best achieved through full harmonisation. Full harmonisation is necessary in order to ensure that all consumers in the Union enjoy a high and equivalent level of protection of their interests and to create a well-functioning internal market. Member States should therefore not be allowed to maintain or introduce national provisions other than those laid down in this Directive, with respect to aspects covered by the Directive, unless otherwise provided in this Directive. Where no such harmonised provisions exist, Member States should remain free to maintain or introduce **provisions in their** national legislation.

Amendment 3

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) In order to address the fact that the progressive introduction of Union sector specific legislation has led to significant overlaps of that legislation with Directive

Amendment

(7) In order to address the fact that the progressive introduction of Union sector specific legislation has led to significant overlaps of that legislation with Directive

2002/65/EC and that digitalisation exacerbated some aspects that are not fully addressed by the Directive, including how and when information should be provided to the consumer, it is necessary to revise the rules applicable to financial services contracts concluded between a consumer and a trader at a distance, while at the same time ensuring the application of the ‘safety net’ feature.

2002/65/EC and that digitalisation exacerbated some aspects that are not fully addressed by the Directive, including how and when information should be provided to the consumer ***and the means through which contracts can be concluded or the information asymmetry between providers and consumers***, it is necessary to revise the rules applicable to financial services contracts concluded between a consumer and a trader at a distance, while at the same time ensuring the application of the ‘safety net’ feature ***for financial services which are not covered by Union sector specific legislation, including financial services excluded from the scope of Union acts governing specific financial services.***

Amendment 4

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) While not all the provisions of Directive 2011/83/EU should apply to financial services contracts concluded at a distance due to the specific nature of those services, a number of provisions of Directive 2011/83/EU, such as relevant definitions, rules on additional payments, on enforcement ***and*** penalties, should also apply to financial services contracts concluded at a distance. The application of those provisions ensures complementarity between the different types of contracts concluded at a distance. The extension of the application of the rules on penalties of Directive 2011/83/EU will ensure that effective, proportionate and dissuasive fines are imposed on traders responsible for widespread infringements or widespread infringements with a Union dimension.

Amendment

(10) While not all the provisions of Directive 2011/83/EU should apply to financial services contracts concluded at a distance due to the specific nature of those services, a number of provisions of Directive 2011/83/EU, such as relevant definitions, rules on additional payments, on enforcement, penalties, ***ancillary contracts and inertia selling***, should also apply to financial services contracts concluded at a distance. The application of those provisions ensures complementarity between the different types of contracts concluded at a distance. The extension of the application of the rules on penalties of Directive 2011/83/EU will ensure that effective, proportionate and dissuasive fines are imposed on traders responsible for widespread infringements or widespread infringements with a Union dimension.

Amendment 5

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) A dedicated chapter in Directive 2011/83/EU should contain the still relevant and necessary rules of Directive 2002/65/EC, in particular concerning the right to pre-contractual information and the right to withdrawal, **and rules ensuring online fairness** when financial service contracts are concluded at a distance.

Amendment

(11) A dedicated chapter in Directive 2011/83/EU should contain **an updated version of** the still relevant and necessary rules of Directive 2002/65/EC, in particular concerning the right to pre-contractual information and the right to withdrawal, when financial service contracts are concluded at a distance.

Amendment 6

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) Since distance financial services contracts are most commonly concluded by electronic means, rules on ensuring online fairness **when financial services are contracted at a distance should contribute to the achievement of the goals laid down in Article 114 TFEU and Article 38 of the Charter of the Fundamental Rights of the EU. The rule on adequate explanations** should ensure added transparency and provide the consumer with the **possibility** to request human intervention when he or she interacts with the trader through online interfaces, such as a chatbox or similar tools. The trader should be prohibited to deploy measures in his or her online interface that could distort or impair the **consumers'** ability to make a free, **autonomous** and informed decision or choice.

Amendment

(12) Since distance financial services contracts are most commonly concluded by electronic means, rules on ensuring online fairness should ensure added transparency and provide the consumer with the **right** to request human intervention when he or she interacts with the trader through online interfaces, such as a chatbox, **roboadvice, interactive** or similar tools. The trader should be prohibited to deploy measures in his or her online interface that could distort or impair the ability **of the consumer** to make a free and informed decision or choice.

Amendment 7

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Certain consumer financial services are governed by specific Union acts, which continue to apply to those financial services. In order to ensure legal certainty, it should be clarified that where another Union act governing specific financial services contains rules on pre-contractual information or on the exercise of the right of withdrawal, only the respective provisions of those other Union acts should apply to those specific consumer financial services unless provided otherwise in those acts. For instance, when Article 186 of Directive 2009/138/EC of the European Parliament and of the Council¹⁹ applies, the rules concerning the 'cancellation period' laid down in Directive 2009/138/EC apply and not the rules on the right of withdrawal laid down in this Directive and when Article 14(6) of Directive 2014/17/EU of the European Parliament and of the Council²⁰ applies, the rules on the right of withdrawal under this Directive should not apply. Likewise, certain Union acts governing specific financial services²¹ contain extensive and developed rules designed to ensure that consumers are able to understand the essential characteristics of the proposed contract. Furthermore, certain Union acts governing specific financial services, such as Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property²², already lay down rules on adequate explanations to be provided by the traders to the consumers with respect to the proposed contract. In order to ensure legal certainty, the rules on adequate explanations set out in this Directive should not apply to financial services falling under Union acts governing specific financial services that contain rules on the information to be provided to the consumer prior to the conclusion of the contract.

Amendment

(13) Certain consumer financial services are governed by specific Union acts, which continue to apply to those financial services. In order to ensure legal certainty, ***and to ensure that there are no duplications or overlaps***, it should be clarified that where another Union act governing specific financial services contains rules on pre-contractual information or on the exercise of the right of withdrawal, only the respective provisions of those other Union acts should apply to those specific consumer financial services unless provided otherwise in those acts. ***This Directive does not amend or modify an existing sectoral legislation.*** For instance, when Article 186 of Directive 2009/138/EC of the European Parliament and of the Council¹⁹ applies, the rules concerning the 'cancellation period' laid down in Directive 2009/138/EC apply and not the rules on the right of withdrawal laid down in this Directive and when Article 14(6) of Directive 2014/17/EU of the European Parliament and of the Council²⁰ applies, the rules on the right of withdrawal under this Directive should not apply. Likewise, certain Union acts governing specific financial services²¹ contain extensive and developed rules designed to ensure that consumers are able to understand the essential characteristics of the proposed contract. Furthermore, certain Union acts governing specific financial services, such as Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property²², already lay down rules on adequate explanations to be provided by the traders to the consumers with respect to the proposed contract. In order to ensure legal certainty, the rules on adequate explanations set out in this Directive should not apply to financial services falling under Union acts governing specific financial services that contain rules

on the information to be provided to the consumer prior to the conclusion of the contract. ***The sectoral provisions contained in those specific Union acts should prevail over the rules of this Directive even where those provisions are not identical to the ones contained in this Directive.***

¹⁹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

²⁰ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).

²¹ Such as, Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1), Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349), Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19), Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214)

²² Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for

¹⁹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

²⁰ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).

²¹ Such as, Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1), Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349), Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19), Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214)

²² Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for

consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34)

consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34)

Amendment 8

Proposal for a directive Recital 16

Text proposed by the Commission

(16) In order to delimit the scope of application of this Directive, the rules concerning consumer financial services concluded at a distance should not apply to services provided on a strictly occasional basis and outside a commercial structure dedicated to the conclusion of distance contracts.

Amendment

(16) In order to delimit the scope of application of this Directive, the rules concerning consumer financial services concluded at a distance should not apply to services provided on a strictly occasional basis and outside a commercial structure dedicated to the conclusion of distance contracts, ***for example when contacting an existing consumer to amend or extend a contract by distance means.***

Amendment 9

Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Based on the principle of proportionality laid down in Article 5 TEU, this Directive should not be too burdensome for SMEs.

Amendment 10

Proposal for a directive Recital 17

Text proposed by the Commission

(17) The use of means of distance communications should not lead to an

Amendment

(17) The use of means of distance communications ***offers good opportunities***

unwarranted restriction on the information provided to the consumer. In the interests of transparency, requirements should be laid down with regard to when the information should be provided to the consumer prior to the conclusion of the distance contract and how that information should reach the consumer. In order to be able to make their decisions in full knowledge of the facts, consumers should receive the information **at least one day** prior to the conclusion of the distance contract. **Only in exceptional cases can the information be provided less than a day before the conclusion of the distance contract for financial service. In case the contract is concluded less than one day before, the trader, within the established timeframe, should be obliged to remind the consumer about the possibility to withdraw from the distance contract for financial service.**

to obtain information and should not lead to an unwarranted restriction on the information provided to the consumer. **When using telephone communications, the consumer should initiate the call or, when initiated by the trader, the consumer should explicitly agree to continue the telephone communication. The provider should apply specific pre-contractual information obligations before the consumer is bound by the contract.** In the interests of transparency, requirements should be laid down with regard to when the information should be provided to the consumer prior to the conclusion of the distance contract and how that information should reach the consumer. In order to be able to make their decisions in full knowledge of the facts, consumers should receive the information **in good time** prior to the conclusion of the distance contract. **This is to ensure that the consumer has sufficient time to read and understand the pre-contractual information, compare offers and to make an informed decision. In case the information is provided less than a day before the conclusion of the distance contract for financial service, the trader should be obliged to remind the consumer, on a durable medium, about the possibility to withdraw from the distance contract for financial service. That reminder should be provided to the consumer between one and seven days at the latest, after the conclusion of the distance contract.**

Amendment 11

Proposal for a directive Recital 18

Text proposed by the Commission

(18) The information requirements should be modernised and **updated** to include, for example, the email address of the trader and the information on the risk

Amendment

(18) The information requirements should be modernised and **made future-proof. This Directive updates those** to include, for example, the email address of

and reward related to certain consumer financial services. Consumers should **also be** clearly **informed when** the price presented to them is personalised on the basis of **automated processing**.

the trader **or other means of electronic communication** and the information on the risk and reward related to certain consumer financial services. **When personalising the price of an offer for specific consumers or specific categories of consumers for financial services to be concluded at a distance, the trader** should clearly **inform the consumer that** the price presented to them is personalised on the basis of **individual price sensitivity**.

Amendment 12

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Certain financial services might **pursue an** environmental or social **objective such as contributing to the fight against climate change or contributing to the reduction of over-indebtedness**. In order to be able to make an informed decision, the consumer should also be informed about the particular environmental or social objectives targeted by the financial service.

Amendment

(20) Certain financial services might **integrate** environmental or social **factors into their investment strategy**. In order to be able to make an informed decision, the consumer should also be informed about the particular **duly documented** environmental or social objectives targeted by the financial service.

Amendment 13

Proposal for a directive Recital 22

Text proposed by the Commission

(22) When providing pre-contractual information through electronic means, such information should be presented in a clear and comprehensible manner. In this regard, the information could be highlighted, framed and contextualised effectively within the display screen. The technique of layering has been tested and proved to be useful for certain financial services; its uses, namely the possibility to present

Amendment

(22) When providing pre-contractual information through electronic means, such information should be presented in a clear and comprehensible manner. In this regard, the information could be highlighted, framed and contextualised effectively within the display screen. The technique of layering has been tested and proved to be useful for certain financial services; its uses, namely the possibility to present

detailed parts of the information through pop-ups or through links to accompanying layers, should be encouraged. A possible manner of providing pre-contractual information is through the ‘tables of contents’ approach using expandable headings. At the top level, consumers could find the main topics, each of which can be expanded by clicking on it, so that the consumers are directed to a more detailed presentation of the relevant information. In this way, the consumer has all the required information in one place, while retaining control over what to review and when. Consumers should have the possibility to download all the pre-contractual information document and to save it as a stand-alone document.

detailed parts of the information through pop-ups or through links to accompanying layers, should be encouraged. A possible manner of providing pre-contractual information is through the ‘tables of contents’ approach using expandable headings. At the top level, consumers could find the main topics, each of which can be expanded by clicking on it, so that the consumers are directed to a more detailed presentation of the relevant information. In this way, the consumer has all the required information in one place, while retaining control over what to review and when. ***On the other hand, overly lengthy and complex descriptions, small print, and extensive use of hyperlinks should be avoided as much as possible, as these are methods that worsen the understanding of consumers.*** Consumers should have the possibility to download all the pre-contractual information document and to save it as a stand-alone document.

Amendment 14

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) ***For distance contracts concluded by electronic means, the trader should provide the consumer with the possibility to use a withdrawal button. In order for ensure the effective use of the withdrawal button, the trader should ensure that it is visible and, when the consumer uses the button, the trader should adequately document its use.***

Amendment

(25) ***Where the trader offers the possibility of concluding distance contracts by means of an online interface, such as through a web-site or application, the trader should provide additional safeguards to ensure that consumers can withdraw from a contract in a visible, simple and rapid manner, and as easily as they were able to conclude it.*** The trader should provide the consumer with a withdrawal ***function, in a way that makes it easy for the consumer to find it. The consumer should be able to submit the withdrawal statement and to provide certain information to identify the contract. If the consumer is already identified, for example as a result of***

logging in, the trader should ensure that *the consumer is able to indicate which contract they wish to withdraw from without the necessity of identifying himself or herself again. In order to avoid the unintended use of the right of withdrawal by the consumer, the trader may consider introducing safeguards such as prior control warning, identification as well as the requirement to confirm the withdrawal once the consumer has submitted the necessary information to identify the contract concerned.*

Amendment 15

Proposal for a directive Recital 26

Text proposed by the Commission

(26) Consumers may need assistance in order to decide which financial service is the most appropriate for his or her needs and financial situation. Therefore, Member States should ensure that before the conclusion of a financial service contract at a distance, traders provide such assistance in relation to the financial services which they offer to the consumer, by providing adequate explanations about the relevant information, including the essential characteristics of the products proposed. The obligation of providing adequate explanations is particularly important when consumers intend to conclude a financial service contract at a distance and the trader provides explanations through online tools. In order to ensure that the consumer understands the effects that the contract may have on his or her economic situation, the consumer should always be able to obtain human intervention on behalf of the trader.

Amendment

(26) Consumers may need assistance in order to decide which financial service is the most appropriate for his or her needs and financial situation. Therefore, Member States should ensure that before the conclusion of a financial service contract at a distance, traders provide such assistance in relation to the financial services which they offer to the consumer, by providing adequate explanations about the relevant information, including the essential characteristics of the products proposed. The obligation of providing adequate explanations is particularly important when consumers intend to conclude a financial service contract at a distance and the trader provides explanations through online tools. In order to ensure that the consumer understands the effects that the contract may have on his or her economic situation, the consumer should always be able to obtain human intervention on behalf of the trader, *free of charge, during the business hours of the trader. When implementing this provision, Member States should strive to find proportionate solutions that*

take into account the specificities of small and micro enterprises.

Amendment 16

Proposal for a directive Recital 27

Text proposed by the Commission

(27) When concluding financial services contracts at a distance, traders should be prohibited to use the structure, design, function or manner of operation of their online interface in a way that could distort or impair consumers' ability to make a free, autonomous and informed decision or choice.

Amendment

(27) Regulation (EU) 2022/2065 defines dark patterns as practices that materially distort or impair, either on purpose or in effect, the ability of consumers to make autonomous and informed choices or decisions. Those practices can be used to persuade the consumer to engage in unwanted behaviours or into undesired decisions which have negative consequences for them. Providers of financial services should therefore be prohibited from deceiving or nudging consumers and from distorting or impairing the autonomy, decision-making, or choice of the consumer via the structure, design or functionalities of an online interface or a part thereof. This should include, but not be limited to, exploitative design choices to direct the consumer to actions that benefit the provider of financial services, but which may not be in the consumers' interests, presenting choices in a non-neutral manner, such as giving more prominence to certain choices through visual, auditory, or other components, when asking the recipient of the service for a decision. Such practices may include making the procedure for terminating a contract more difficult than subscribing to it, using pre-ticked boxes as a way to distort, making certain choices more difficult or time-consuming than others or repeatedly requesting a consumer to make a choice where such a choice has already been made.

Amendment 17

Proposal for a directive Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) Consumers may be driven in their decisions by advertising promising a high return on investment, with respect to the promotion of certain financial services which are subject to uncertain future performances. There have been instances in Member States where influencer marketing has misled consumers through advertising speculative high-risk financial services products on social media platforms without warning of the high risk of loss for consumers. To prevent misleading information for consumers, advertising should contain a risk warning. Member States should in this regard take measures to ensure that any persons or companies who would like to advertise a financial services product on social media platforms prominently labels whether he or she has the appropriate competence to do so and that it is clearly mentioned if there is any remuneration for this advertising.

Amendment 18

Proposal for a directive Article 1 – paragraph 1 – point 1 – point a Directive 2011/83/EU Article 3 – paragraph 1b – subparagraph 1

Text proposed by the Commission

Amendment

‘Articles 1 and 2, Article 3(2), (5) and (6), Article 4, Articles 16a to 16e, Article 19, Articles 21 to 23, Article 24(1), (2), (3) and (4) and Articles 25 and 26 shall apply to distance contracts concluded between a trader and a consumer for the supply of financial services.

Only Article 1, Article 2(1)-(7) and (9)-(21), Article 3(2), (5) and (6), Article 4, Article 6a, Article 8(6), Article 11a Articles 16a to 16e, Article 19, Articles 21 to 23, Article 24(1), (2), (3) and (4) and Articles 25, 26 and 27 shall apply to distance contracts concluded between a

trader and a consumer for the supply of financial services.

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point a

Directive 2011/83/EU

Article 3 – paragraph 1b – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Where there is no initial service agreement but the successive operations or the separate operations of the same nature are performed over time between the same contractual parties, Articles 16a and 16d shall only apply to the performance of the first operation.

Where, however, no operation of the same nature is performed for more than one year, the next operation shall be deemed to be the first in a new series of operations and, accordingly, Articles 16a and 16d shall apply thereto.

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 1 a (new)

Directive 2011/83/EU

Article 11a (new)

Text proposed by the Commission

Amendment

(1a) Article 11a

Exercise of the right of withdrawal from distance contracts concluded by means of an online interface

1. For distance contracts concluded by means of an online interface, the trader shall ensure that the consumer can exercise his or her right to withdraw from the contract by using a withdrawal

function.

In order to facilitate the exercise by the consumer of his or her right to withdraw from the contract, the withdrawal function shall be labelled in a legible manner, for example containing the words “withdraw from contract” or a corresponding wording, be placed on the online interface in a prominent manner and be easily accessible to the consumer.

2. When using the withdrawal function, the consumer shall be allowed to complete and submit by electronic means a withdrawal statement with the following information:

- (a) the name of the consumer;*
- (b) the identification of the contract;*
- (c) the details of the electronic means by which the confirmation of the withdrawal is to be sent to the consumer.*

3. The procedure of submitting a withdrawal statement by electronic means shall be labelled in a legible manner and be permanently available during the entire withdrawal period. Once the consumer submits the withdrawal statement, the trader shall, without undue delay and on a durable medium, provide the consumer with a confirmation of the submission of the withdrawal statement, including its contents and the date and time of its submission. The trader shall confirm the withdrawal to the consumer or indicate whether there are further requirements to complete the withdrawal process.

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – introductory part

Text proposed by the Commission

1. Before the consumer is bound by a distance contract, or any corresponding offer, the trader **shall provide** the consumer with the following information, in a clear and comprehensible manner:

Amendment

1. **Member States shall ensure that** before the consumer is bound by a distance contract, or any corresponding offer, the trader **provides** the consumer with the following information, in a clear and comprehensible manner:

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point b

Text proposed by the Commission

(b) the geographical address at which the trader is established as well as the trader's telephone number and email address; in addition, where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently; where applicable, the trader shall also provide the geographical address **and identity of the trader** on whose behalf he is acting;

Amendment

(b) the geographical address at which the trader is established as well as the trader's telephone number and email address **or other means of safe electronic communication**; in addition, where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently; where applicable, the trader shall also provide the **identity and relevant information about the trader, such as the geographical address, telephone number and email address**, on whose behalf he **or she** is acting;

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point c

Text proposed by the Commission

(c) if different from the address provided in accordance with point (b), the geographical address of the place of business of the trader, and, ***where applicable, that of the trader on whose behalf he is acting***, where the consumer can address any complaints;

Amendment

(c) if different from the address provided in accordance with point (b), the geographical address of the place of business of the trader, and ***the relevant contact details*** where the consumer can address any complaints ***to the trader, and where applicable, to the trader on whose behalf he or she is acting***;

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point ga (new)

Text proposed by the Commission

Amendment

(ga) where applicable, information on the consequences of non-compliance with the financial services contract, such as late or missed payments;

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point o

Text proposed by the Commission

Amendment

(o) ***where applicable***, information on any environmental or social objectives targeted by the financial service;

(o) information on any environmental or social objectives targeted by the financial service, ***where environmental or social factors are integrated into the investment strategy of the financial service***;

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point p

Text proposed by the Commission

(p) the existence or absence of a right of withdrawal and, where the right of withdrawal exists, its duration and the conditions for exercising it including information on the **amount** which the consumer may be required to pay, as well as the consequences of non-exercise of that right;

Amendment

(p) the existence or absence of a right of withdrawal and, where the right of withdrawal exists, its duration and the conditions for exercising it including information on the **fees** which the consumer may be required to pay, as well as the consequences of non-exercise of that right;

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point s

Text proposed by the Commission

(s) practical instructions for exercising the right of withdrawal indicating, inter alia, the address **or** email address to which the notification of a withdrawal should be sent and **for financial contracts concluded by electronic means**, information about the existence and placement of the withdrawal **button**, referred to in Article **16d**;

Amendment

(s) practical instructions for exercising the right of withdrawal indicating, inter alia, the address, email address **or other electronic means of communications** to which the notification of a withdrawal should be sent and information about the existence and placement of the withdrawal **function**, referred to in Article **11a**;

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point va (new)

Text proposed by the Commission

Amendment

(va) where applicable, the existence of guarantee funds or other compensation arrangements;

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The trader shall provide the information referred to in this paragraph in good time before the consumer is bound by any distance contract.

Amendment 30

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

In the case of telephone communications, the identity of the trader and the commercial purpose of the call **initiated by the trader** shall be made explicitly clear at the beginning of any **conversation** with the consumer.

In the case of telephone communications **or other distance communication techniques initiated by the trader**, the identity of the trader and the commercial purpose of the call **or communication** shall be made explicitly clear at the beginning of any **communication** with the consumer.

Amendment 31

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Where the consumer explicitly agrees to continue the telephone **communications, by way of derogation from paragraph 1**, only the information referred to in points (a), (f), (g), and (p) of that paragraph needs to be provided.

In the case of telephone communication and by way of derogation from paragraph 1, if the consumer explicitly agrees to continue the telephone **communication**, only the information referred to in points (a), (f), (g), **(ga), (j)**, and (p) of that

paragraph, *and, where applicable, information that the financial service is related to instruments involving risks,* needs to be provided *by the trader before the consumer is bound by the distance contract.*

Amendment 32

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 2 – subparagraph 3

Text proposed by the Commission

The trader shall inform the consumer of the nature and the availability of the other information referred to in paragraph 1 *and shall provide that information when fulfilling obligations under paragraph 3.*

Amendment

The remaining information referred to in paragraph 1 shall be provided immediately after the conclusion of the contract when fulfilling the obligations under paragraph 3 and on a durable medium. The trader shall inform the consumer of the nature and the availability of the other information referred to in paragraph 1.

Amendment 33

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 3 – subparagraph 2

Text proposed by the Commission

When the information referred to in paragraph 1 is provided less than one day before the consumer is bound by the distance contract, Member States shall require that the trader sends a reminder, on a durable medium, to the consumer of the possibility to withdraw from the distance contract and of the procedure to follow for withdrawing, in accordance with Article 16b. That reminder shall be provided to the consumer, at the latest, *one day* after the

Amendment

When the information referred to in paragraph 1 is provided less than one day before the consumer is bound by the distance contract, Member States shall require that the trader sends a reminder, on a durable medium, to the consumer of the possibility to withdraw from the distance contract and of the procedure to follow for withdrawing, in accordance with Article 16b. That reminder shall be provided to the consumer *between one and seven days* at the latest, after the conclusion of the

conclusion of the distance contract.

distance contract.

Amendment 34

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a– paragraph 4 – subparagraph 1

Text proposed by the Commission

The information referred to in paragraph 1 shall be **made available** to the consumer on a durable medium and laid out in a way that is easy to read, using characters of readable size.

Amendment

The information referred to in paragraph 1 shall be **provided** to the consumer on a durable medium and laid out in a way that is easy to read, using characters of readable size.

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a– paragraph 4 – subparagraph 2

Text proposed by the Commission

Except for the information referred to in paragraph 1, points (a), (f), (g), and (p), the trader shall be permitted to layer the information where it is provided by electronic means.

Amendment

Except for the information referred to in paragraph 1, points (a), (f), (g), **(ga), (n)** and (p), the trader shall be permitted to layer the information where it is provided by electronic means.

Amendment 36

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a– paragraph 4 – subparagraph 5

Text proposed by the Commission

The information referred to in paragraph 1 shall be made available upon request in an appropriate format to consumers with a visual impairment.

Amendment

The information referred to in paragraph 1 shall be made available upon request in an appropriate **and accessible** format to **consumers with disabilities, including consumers with a visual impairment *in line***

Amendment 37

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 6

Text proposed by the Commission

6. Where another Union act governing specific financial services contains rules on the information to be provided to the consumer prior to the conclusion of the contract, only the pre-contractual information requirements of that Union act shall apply to those specific financial services, unless provided otherwise in that act.

Amendment

6. Where another Union act governing specific financial services contains rules on the information to be provided to the consumer prior to the conclusion of the contract, only the pre-contractual information requirements of that Union act shall apply to those specific financial services, unless provided otherwise in that act. ***In that case, this Article shall not apply.***

Amendment 38

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 6a (new)

Text proposed by the Commission

Amendment

6a. The rules concerning consumer financial services concluded at a distance shall not apply to services provided on a strictly occasional basis and outside a commercial structure dedicated to the conclusion of distance contracts.

Amendment 39

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The Member States shall ensure that the consumer shall have a period of 14 calendar days to withdraw from a contract without penalty and without giving any reason.

The Member States shall ensure that the consumer shall have a period of 14 calendar days to withdraw from a contract without penalty and without giving any reason. ***This period shall be extended to 30 calendar days in distance contracts relating to personal pension operations.***

Amendment 40

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 1– subparagraphs 2, 3 and 4

Text proposed by the Commission

Amendment

If the consumer has not received the contractual terms and conditions or the information in accordance with Article 16a, the withdrawal period shall in any case expire 12 months and 14 days after the conclusion of the distance contract.

This shall not apply if the consumer has not been informed at all about their right of withdrawal in accordance with Article 16a point (p).

The period of withdrawal shall in any case lapse where both parties completely fulfilled the contract in accordance with paragraph 2(c) of this Article.

Amendment 41

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 2 – point a – indent 8

Text proposed by the Commission

Amendment

— ***crypto-assets as defined in [Article***

deleted

3(1)(2) of Commission Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/193 24.9.2020 COM(2020) 593 final].

Amendment 42

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16b – paragraph 3

Text proposed by the Commission

3. The consumer shall ***have exercised his*** right of withdrawal within the withdrawal period referred to in paragraph 1 if the communication concerning the exercise of the right of withdrawal is sent or the withdrawal ***button*** referred to in ***paragraph 5*** is activated by the consumer before that period has expired.

Amendment

3. The consumer shall ***exercise his or her*** right of withdrawal within the withdrawal period referred to in paragraph 1 if the communication concerning the exercise of the right of withdrawal is sent or the withdrawal ***function*** referred to in ***Article 11a*** is activated by the consumer before that period has expired.

Amendment 43

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16b – paragraph 3a (new)

Text proposed by the Commission

Amendment

3a. Where an ancillary service relating to the distance contract for financial service is provided by the trader or by the third party on the basis of an agreement between that third party and the trader, this ancillary contract shall be automatically terminated, without any costs for the consumer, if the consumer exercises his or her right of withdrawal in accordance with this Article.

Amendment 44

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall ensure that, for distance contracts concluded by electronic means, the trader provides a possibility to use a withdrawal button in order to facilitate the consumer's exercise of the right of withdrawal. Such button shall be clearly labelled with the words 'Withdraw from Contract' or a corresponding unambiguous formulation.

deleted

The withdrawal button shall be placed in a prominent manner and permanently available during the entire withdrawal period on the same electronic interface as the one used to conclude the distance contract. In addition, the trader may also provide the withdrawal button through another channel.

The trader shall ensure that the activation of the withdrawal button results in an instant confirmation notice to the consumer that the right of withdrawal has been exercised, which shall include the date and time of the exercise of the right of withdrawal. Confirmation of the exercise of the right of withdrawal shall be provided by the trader to the consumer on a durable medium.

Amendment 45

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 6

Text proposed by the Commission

Amendment

6. Where another Union act governing specific financial services contains rules on **the exercise of** the right of withdrawal, only the right of withdrawal rules of that Union act shall apply to those specific financial services, unless provided otherwise in that act.

6. Where another Union act governing specific financial services contains rules on the right of withdrawal, only the right of withdrawal rules of that Union act shall apply to those specific financial services, unless provided otherwise in that act, **and paragraphs 1 to 4 of this Article shall not apply.**

Amendment 46

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16d – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that traders are required to provide adequate explanations to the consumer on the proposed financial services contracts that make it possible for the consumer to assess whether the proposed contract and ancillary services are adapted to his or her needs and financial situation. The explanations shall include the following elements:

Amendment

1. Member States shall ensure that traders are required to provide adequate explanations to the consumer on the proposed financial services contracts that make it possible for the consumer to assess whether the proposed contract and ancillary services are adapted to his or her needs and financial situation. The **provision of such information shall be provided free of charge for consumers and shall be provided in good time before the conclusion of the contract. The** explanations shall, **as a minimum,** include the following elements:

Amendment 47

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16d – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, in case the trader uses online tools, the consumer shall have a right to request and obtain human intervention.

Amendment

3. Member States shall ensure that, in case the trader uses online tools, the consumer shall have a right to request and obtain human intervention **when concluding a distance contract, in the**

language used in the pre-contractual information provided in accordance with Article 16a (1).

Amendment 48

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16d – paragraph 3a (new)

Text proposed by the Commission

Amendment

3a. *As regards compliance with this Article, the burden of proof shall be on the trader.*

Amendment 49

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16e

Text proposed by the Commission

Amendment

Article 16e

Article 16e

Additional protection regarding online **interfaces**

Additional protection regarding **financial services contracts concluded** online

Without prejudice to Directive 2005/29/EC of the European Parliament and of the Council²⁴ and Council Directive 93/13/EEC²⁵, Member States shall adopt measures requiring that traders, when concluding financial services contracts at a distance, do not **use the structure**, design, **function or manner of operation of** their online **interface** in a way that **could distort or impair consumers'** ability to make a free, **autonomous** and informed decision **or choice**.

Without prejudice to Directive 2005/29/EC of the European Parliament and of the Council²⁴ and Council Directive 93/13/EEC²⁵, Member States shall adopt measures requiring that traders, when concluding financial services contracts at a distance, do not design, **organise or operate** their online **interfaces as defined in Article 3(m) of Regulation (EU) 2022/2065** in a way that **deceives or manipulates the consumer or in a way that otherwise materially distorts or impairs the ability of the consumer** to make a free and informed decision.

Those measures shall inter alia include the obligation for traders to present

different options to consumers in a neutral and non-misleading way. Without prejudice to the obligations under Directive 2010/13/EU, Member States shall adopt measures to tackle the risks associated with marketing practices promoting financial services concluded at a distance. The measures shall ensure clear and responsible advertising of financial services products to prevent consumers from being deceived, which may include measures to ensure that any person or company advertising a financial service product on social media platforms, is obliged to prominently label whether he or she is competent to do so, has the appropriate knowledge and competence to communicate on the financial services offered in compliance with applicable regulations and that it is clearly mentioned if there is any remuneration for this advertising.

Member States shall require that advertising concerning financial services to be concluded at a distance include a clear and prominent risk warning in cases where: (a) the financial service is related to instruments involving special risks related to their specific features or the operations to be executed or whose price depends on fluctuations in the financial markets outside the supplier's control and (b) the financial service involves the consumer becoming indebted.

The risk warning concerning financial services falling under point (a) shall warn consumers that they can lose money, while the risk warning for financial services falling under point (b) shall warn consumers that borrowing costs money.

The Commission shall annually publish the list of national measures in force adopted by the Member States in relation to this Article, starting from [30 months from the adoption of this Directive].

²⁴ Directive 2005/29/EC of the European

²⁴ Directive 2005/29/EC of the European

Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

²⁵ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

²⁵ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

Amendment 50

Proposal for a directive

Article 2 – title

Text proposed by the Commission

Transposition

Amendment

Transposition *and review*

Amendment 51

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish by [~~24~~ months from adoption] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish by [~~24~~ **18** months from adoption] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 52

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

They shall apply those provisions from [the date after **24** months from adoption].

They shall apply those provisions from [the date after **18** months from adoption].

Amendment 53

Proposal for a directive Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By 31 July 2035, the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. That report shall include an evaluation of the functioning of the market for financial services concluded at the distance in the Union and the impact of this Directive in relation to other relevant Union law.

EXPLANATORY STATEMENT

The current Directive 2002/65/EC on Distance Marketing of Consumer Financial Services (DMFSD) was adopted in 2002, and implemented two years later, when consumers' use of financial services and the digital environment looked very different than today. Rather than using fax machines, consumers can today use Internet or apps on their phones when concluding contracts at a distance, and may use other technological means of communications in the future.

The DMFSD applies horizontally, but there has been a steady increase in product specific legislation, which take precedence over the DMFSD. This raises the question of the overall relevance of the Distance Marketing Directive. The REFIT evaluation reaches the conclusion that the DMFSD remains relevant as a safety net for services not covered by product specific legislation. In this regard, the Rapporteur welcomes the proposal from the Commission to repeal the DMFSD and to update, modernise and transfer its key provisions on financial services into a new chapter on financial services sold at a distance within the Consumer Rights Directive.

As a general approach, the Rapporteur wants to uphold a high level of consumer protection, ensure legal clarity for companies without administrative overburdening and enable new technological developments in financial services through technology neutrality. The Rapporteur believes that harmonising certain consumer protection rules on financial services distance contracts will be beneficial for the free movement of financial services in the European single market.

Scope and overlapping legislation

The Rapporteur supports the overall approach of the Commission to keep the horizontal scope and that the DMFSD shall remain a safety net where sectoral legislation have precedence and should not overlap or duplicate. To safeguard the horizontal nature of the Directive, the rules should be clear and not go beyond the scope.

It should be clear that product specific legislation prevails even when the regulations do not have identical content in corresponding acts, but regulate the same provisions, for example provisions on withdrawal rights. It should also be noted that new services that are not currently covered by the DMFSD might be added in the future, which necessitates an openness to new electronic communication techniques.

The Rapporteur believes that the DMFSD should ensure strong consumer protection across the EU, taking into account that the use of financial services still looks different across Member States. The Rapporteur welcomes that some provisions of the Consumer Rights Directive are extended to financial services contracts concluded at a distance, but wants to avoid amending the Consumer Rights Directive outside the scope of this revision.

Pre-contractual information

The DMFSD primarily safeguards the right to pre-contractual information and the right of withdrawal. The Rapporteur believes that such information should be provided in good time, which will differ depending on what services are provided. The Commission proposes the right to information within 24 hours. The Rapporteur believes that there needs to be some flexibility on the timeline for some sectors affected by the DMFSD, where consumers need to conclude contracts with a short time notice. Digital clients also have other possibilities of informing themselves prior to making a decision.

Right of withdrawal

The right of withdrawal is an important part of this Directive. The Rapporteur supports requiring providers to provide easily accessible information on the consequences of withdrawal and a possibility to withdraw in a simple and rapid manner by electronic means. This would allow providers to develop IT solutions and interfaces that are most logical for consumers.

However, the Commission introduces a withdrawal button, with very specific requirements of its electronic interface, including to be labelled “withdraw from contract”, be placed in a prominent manner and be permanently available the entire withdrawal period on the same electronic interface. The Rapporteur believes that the proposal of a withdrawal button is too detailed, administratively burdensome and does not align with being technology neutral. For some financial services, a withdrawal button would even make it more complicated for consumers and would go against the purpose of improving consumers’ rights.

The Commission does not propose any changes from the Distance Marketing Directive on extending the right of withdrawal, in case the consumer was inadequately informed of that right. The Rapporteur believes that there is a need for more certainty in this regard, and that this should preferably be aligned with other relevant legislation.

Online requirements

There should be some flexibility on the requirements of human intervention, and not an obligation, taking into account the different nature of the services affected by the DMFSD and new technological developments. When it comes to new elements such as online interfaces, the Rapporteur wants to emphasize continuity and that the provisions on online interfaces should be consistent with existing legislation.

25.1.2023

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on the Internal Market and Consumer Protection

on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC
(COM(2022)0204 – C9-0175/2022 – 2022/0147(COD))

Rapporteur for opinion: Stéphanie Yon-Courtin

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Certain consumer financial services are governed by specific Union acts, which continue to apply to those financial services. In order to ensure legal certainty, it should be clarified that where another Union act governing specific financial services contains rules on pre-contractual information or on the exercise of the right of withdrawal, only the respective provisions of those other Union acts should apply to those specific consumer financial services unless provided otherwise in those acts. For instance, when Article 186 of Directive 2009/138/EC of the European Parliament and of the Council¹⁹ applies, the rules concerning the 'cancellation period'

Amendment

(13) Certain consumer financial services are governed by specific Union acts, which continue to apply to those financial services. In order to ensure legal certainty, it should be clarified that where another Union act governing specific financial services contains rules on pre-contractual information or on the exercise of the right of withdrawal, only the respective provisions of those other Union acts should apply to those specific consumer financial services unless provided otherwise in those acts. ***Sectoral rules should prevail over the rules laid down in this Directive.*** For instance, when Article 186 of Directive 2009/138/EC of the European Parliament

laid down in Directive 2009/138/EC apply and not the rules on the right of withdrawal laid down in this Directive and when Article 14(6) of Directive 2014/17/EU of the European Parliament and of the Council²⁰ applies, the rules on the right of withdrawal under this Directive should not apply. Likewise, certain Union acts governing specific financial services²¹ contain extensive and developed rules designed to ensure that consumers are able to understand the essential characteristics of the proposed contract. Furthermore, certain Union acts governing specific financial services, such as Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property²², already lay down rules on adequate explanations to be provided by the traders to the consumers with respect to the proposed contract. In order to ensure legal certainty, the rules on adequate explanations set out in this Directive should not apply to financial services falling under Union acts governing specific financial services that contain rules on the information to be provided to the consumer prior to the conclusion of the contract.

¹⁹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

²⁰ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).

²¹ Such as, Regulation (EU) 2019/1238 of the European Parliament and of the

and of the Council¹⁹ applies, the rules concerning the 'cancellation period' laid down in Directive 2009/138/EC apply and not the rules on the right of withdrawal laid down in this Directive and when Article 14(6) of Directive 2014/17/EU of the European Parliament and of the Council²⁰ applies, the rules on the right of withdrawal under this Directive should not apply. Likewise, certain Union acts governing specific financial services²¹ contain extensive and developed rules designed to ensure that consumers are able to understand the essential characteristics of the proposed contract. Furthermore, certain Union acts governing specific financial services, such as Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property²², already lay down rules on adequate explanations to be provided by the traders to the consumers with respect to the proposed contract. In order to ensure legal certainty, the rules on adequate explanations set out in this Directive should not apply to financial services falling under Union acts governing specific financial services that contain rules on the information to be provided to the consumer prior to the conclusion of the contract.

¹⁹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

²⁰ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).

²¹ Such as, Regulation (EU) 2019/1238 of the European Parliament and of the

Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1), Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349), Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19), Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214)

²² Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34)

Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1), Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349), Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19), Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214)

²² Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34)

Amendment 2

Proposal for a directive Recital 17

Text proposed by the Commission

(17) The use of means of distance communications should not lead to an unwarranted restriction on the information provided to the consumer. In the interests of transparency, requirements should be laid down with regard to when the information should be provided to the consumer prior to the conclusion of the distance contract and how that information should reach the consumer. In order to be able to make their decisions in full knowledge of the facts, consumers should

Amendment

(17) The use of means of distance communications should not lead to an unwarranted restriction on the information provided to the consumer. In the interests of transparency, requirements should be laid down with regard to when the information should be provided to the consumer prior to the conclusion of the distance contract and how that information should reach the consumer. In order to be able to make their decisions in full knowledge of the facts, consumers should

receive the information ***at least one day prior to*** the conclusion of the distance contract. Only in exceptional cases can the information be provided less than a day before the conclusion of the distance contract for financial service. In case the contract is concluded less than one day before, the trader, ***within the established timeframe***, should be obliged to remind the consumer about the possibility to withdraw from the distance contract for financial service.

receive the information ***in good time before*** the conclusion of the distance contract. Only in exceptional cases can the information be provided less than a day before the conclusion of the distance contract for financial service. In case the contract is concluded less than one day before, the trader should be obliged to remind the consumer ***at least one day and no later than seven days after the conclusion of the contract*** about the possibility to withdraw from the distance contract for financial service.

Amendment 3

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) When providing pre-contractual information through electronic means, such information should be presented in a clear ***and*** comprehensible ***manner***. In this regard, the information could be highlighted, framed and contextualised effectively within the display screen. The technique of layering has been tested and proved to be useful for certain financial services; its uses, namely the possibility to present detailed parts of the information through pop-ups or through links to accompanying layers, should be encouraged. A possible manner of providing pre-contractual information is through the ‘tables of contents’ approach using expandable headings. At the top level, consumers could find the main topics, each of which can be expanded by clicking on it, so that the consumers are directed to a more detailed presentation of the relevant information. In this way, the consumer has all the required information in one place, while retaining control over what to review and when. Consumers should have the possibility to download all the pre-contractual information document

Amendment

(22) When providing pre-contractual information through electronic means, such information should be presented in a ***manner that is*** clear, ***fair***, comprehensible ***and not misleading***. In this regard, the information could be highlighted, framed and contextualised effectively within the display screen. The technique of layering has been tested and proved to be useful for certain financial services; its uses, namely the possibility to present detailed parts of the information through pop-ups or through links to accompanying layers, should be encouraged. A possible manner of providing pre-contractual information is through the ‘tables of contents’ approach using expandable headings. At the top level, consumers could find the main topics, each of which can be expanded by clicking on it, so that the consumers are directed to a more detailed presentation of the relevant information. In this way, the consumer has all the required information in one place, while retaining control over what to review and when. Consumers should have the possibility to download all the pre-contractual information document

and to save it as a stand-alone document.

and to save it as a stand-alone document.
When providing relevant information, traders should avoid using dark patterns or other misleading design elements.

Amendment 4

Proposal for a directive Recital 25

Text proposed by the Commission

(25) For distance contracts concluded by electronic means, the trader should provide the consumer with the possibility to ***use*** a withdrawal button. In order ***for*** ensure the effective use of the withdrawal button, the trader should ensure that it is visible and, when the consumer uses the button, the trader should adequately document its use.

Amendment

(25) For distance contracts concluded by electronic means, the trader should provide the consumer with the possibility to ***withdraw from the contract in a simple, easy and rapid manner, for example by using*** a withdrawal button. In order ***to*** ensure the effective use of the withdrawal button, the trader should ensure that it is ***easy to find and clearly*** visible and, when the consumer uses the button, the trader should adequately document its use.

Amendment 5

Proposal for a directive Recital 26

Text proposed by the Commission

(26) Consumers may need assistance in order to decide which financial service is the most appropriate for his or her needs and financial situation. Therefore, Member States should ensure that before the conclusion of a financial service contract at a distance, traders provide such assistance in relation to the financial services which they offer to the consumer, by providing adequate explanations about the relevant information, including the essential characteristics of the products proposed. The obligation of providing adequate explanations is particularly important when consumers intend to conclude a financial

Amendment

(26) Consumers may need assistance in order to decide which financial service is the most appropriate for his or her needs and financial situation. Therefore, Member States should ensure that before the conclusion of a financial service contract at a distance, traders provide such assistance in relation to the financial services which they offer to the consumer, by providing adequate explanations about the relevant information, including the essential characteristics of the products proposed. The obligation of providing adequate explanations is particularly important when consumers intend to conclude a financial

service contract at a distance and the trader provides explanations through online tools. In order to ensure that the consumer understands the effects that the contract may have on his or her economic situation, the consumer should *always* be able to obtain human intervention on behalf of the trader.

service contract at a distance and the trader provides explanations through online tools. In order to ensure that the consumer understands the effects that the contract may have on his or her economic situation, the consumer should be able to obtain human intervention on behalf of the trader. ***When implementing that provision, Member States should strive to find proportionate solutions that take into account the specificities of small and micro enterprises.***

Amendment 6

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point a

Directive 2011/83/EU

Article 3 – paragraph 1b – subparagraph 1

Text proposed by the Commission

‘(1b) Articles 1 and 2, Article 3(2), (5) and (6), Article 4, Articles 16a to 16e, Article 19, Articles 21 to 23, Article 24(1), (2), (3) and (4) and Articles 25 **and** 26 shall apply to distance contracts concluded between a trader and a consumer for the supply of financial services.

Amendment

‘(1b) ‘Articles 1 and 2, Article 3(2), (5) and (6), Article 4, **Article 11**, Articles 16a to 16e, Article 19, Articles 21 to 23, Article 24(1), (2), (3) and (4) and Articles 25, 26 **and 27**, shall apply to distance contracts concluded between a trader and a consumer for the supply of financial services.

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point a

Directive 2011/83/EU

Article 3 – paragraph 1b – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In the event that there is no initial service contract, but successive operations or separate operations of the same nature are performed over time between the same contracting parties, Articles 16a and 16d apply only to the performance of the first

of the series of successive operations or separate operations of the same nature performed over time. However, if no operation of the same nature is performed for more than one year, the next operation will be considered the first in a new series of operations and therefore Articles 16a and 16d shall apply.'

Amendment 8

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – title

Text proposed by the Commission

Information requirements for distance contracts for **consumer** financial services

Amendment

Information requirements for distance contracts for financial services

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – introductory part

Text proposed by the Commission

1. Before the consumer is bound by a distance contract, or any corresponding offer, the trader shall provide the consumer with the following information, in a clear and comprehensible manner:

Amendment

1. ***In good time*** before the consumer is bound by a distance contract, or any corresponding offer, the trader shall provide the consumer with the following information, in a clear and comprehensible manner:

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point a

Text proposed by the Commission

(a) the identity and the main business of the trader;

Amendment

(a) the identity and the main business of the trader ***and, where applicable, that of the trader on whose behalf she or he is acting;***

Amendment 11

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point b

Text proposed by the Commission

(b) the geographical address at which the trader is established as well as the trader's telephone number and email address; in addition, where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently; where applicable, the trader shall also provide the geographical address and identity of the trader on whose behalf he is acting;

Amendment

(b) the geographical address at which the trader is established as well as the trader's telephone number and email address; in addition, where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently; where applicable, the trader shall also provide the geographical address and identity, ***telephone number and email address*** of the trader on whose behalf he is acting;

Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point c

Text proposed by the Commission

(c) *if different from the address provided in accordance with point (b), the geographical address of the place of business of the trader, and, where applicable, that of the trader on whose behalf he is acting, where the consumer can address any complaints;*

Amendment

(c) *information, including telephone number and email address, on how the consumer can access effective remedies when subject to unfair, deceptive or fraudulent practices, on the right to have access to dispute resolution mechanisms and, to whom and where complaints can be addressed;*

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point d

Text proposed by the Commission

(d) where the trader is registered in a trade or similar public register, the **trade** register in which the trader is entered and the registration number or an equivalent means of identification in that register;

Amendment

(d) where the trader is registered in a trade or similar public register, the register in which the trader is entered and the registration number or an equivalent means of identification in that register;

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point e

Text proposed by the Commission

(e) where the trader's activity is subject to an authorisation scheme, the **particulars** of the relevant supervisory authority;

Amendment

(e) where the trader's activity is subject to an authorisation scheme, the **name and address** of the relevant supervisory authority;

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU
Article 16a – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) *where relevant, information on the consequences of non-compliance with the financial services contract, such as late/missed payments;*

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) where applicable, that the price was personalised on the basis of automated decision-making;

(h) where applicable, **the information** that the price was personalised on the basis of automated decision-making;

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 1 – point i

Text proposed by the Commission

Amendment

(i) where relevant notice indicating that the financial service is related to instruments involving special risks related to their specific features or the operations to be executed or whose price depends on fluctuations in the financial markets outside the trader's control and that historical performances are **no** indicators for future performances;

(i) where relevant notice indicating that the financial service is related to instruments involving special risks related to their specific features or the operations to be executed or whose price depends on fluctuations in the financial markets outside the trader's control and that historical performances are **not** indicators for future performances;

Amendment 18

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16a – paragraph 1 – point u

Text proposed by the Commission

(u) in which language, or languages, the contractual terms and conditions, and the prior information referred to in this Article are supplied, and furthermore in which language, or languages, the trader, with the agreement of the consumer, undertakes to communicate during the duration of **this** distance contract;

Amendment

(u) in which language, or languages, the contractual terms and conditions, and the prior information referred to in this Article are supplied, and furthermore in which language, or languages, the trader, with the agreement of the consumer, undertakes to communicate during the duration of **the** distance contract;

Amendment 19

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16a – paragraph 1 – point v a (new)

Text proposed by the Commission

Amendment

(va) the indication of protection of the consumers' personal data and the use of such data in accordance with Regulation (EU) 2016/679;

Amendment 20

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Information referred to in paragraph 1, points (a), (f), (g), and (p) shall be displayed on the first page in a prominent way.

Amendment 21

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16a – paragraph 2 – subparagraph 1

Text proposed by the Commission

In the case of telephone communications, the identity of the trader and the commercial purpose of the **call** initiated by the trader shall be made explicitly clear at the beginning of any conversation with the consumer.

Amendment

In the case of telephone communications **or other means of remote communication**, the identity of the trader and the commercial purpose of the **communication** initiated by the trader shall be made explicitly clear at the beginning of any conversation with the consumer. **The trader shall also notify the consumer when the call is or may be recorded.**

Amendment 22

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16a – paragraph 2a (new)

Text proposed by the Commission

Amendment

2a. If a distance contract to be concluded by electronic means places the consumer under an obligation to pay, the trader shall make the consumer aware in a clear and prominent manner, and directly before the consumer places his order, of the information provided for in points (f), (g), (i), (l), (m) and (q) of Article 16a(1). The trader shall ensure that the consumer, when placing the order, explicitly acknowledges that the order implies an obligation to pay. If placing an order entails activating a button or a similar function, the button or similar function shall be labelled in an easily legible manner only with the words ‘Order with obligation to pay’ or a corresponding unambiguous formulation indicating that placing the order entails an obligation to pay the trader. If the trader does not comply with the obligation set out in this paragraph, the consumer

shall not be bound by the contract or order.

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 3 – subparagraph 1

Text proposed by the Commission

The trader shall provide the information referred to in paragraph 1 **at least one day** before the consumer is bound by any distance contract.

Amendment

The trader shall provide the information referred to in paragraph 1 **in good time** before the consumer is bound by any distance contract.

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16a – paragraph 3 – subparagraph 2

Text proposed by the Commission

When the information referred to in paragraph 1 is provided **less than one day** before the consumer is bound by the distance contract, Member States shall require that the trader sends a reminder, on a durable medium, to the consumer of the possibility to withdraw from the distance contract and of the procedure to follow for withdrawing, in accordance with Article 16b. That reminder shall be provided to the consumer, **at the latest**, one day after the conclusion of the distance contract.

Amendment

When the information referred to in paragraph 1 is provided **in good time** before the consumer is bound by the distance contract, Member States shall require that the trader sends a reminder, on a durable medium, to the consumer of the possibility to withdraw from the distance contract and of the procedure to follow for withdrawing, in accordance with Article 16b. That reminder shall be provided to the consumer **at least one day and no later than seven days** after the conclusion of the distance contract.

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU
Article 16a – paragraph 4 – subparagraph 1

Text proposed by the Commission

The information referred to in paragraph 1 shall be ***made available*** to the consumer on a durable medium and ***laid out in a way that is*** easy to read, using characters of readable size.

Amendment

The information referred to in paragraph 1 shall be ***provided*** to the consumer on a durable medium and ***be legible and in plain language*** easy to read, using characters of readable size.

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU
Article 16a – paragraph 4 – subparagraph 3

Text proposed by the Commission

In case ***the trader decides to layer the*** information, it shall be possible to print the information referred to in paragraph 1 as one single document.

Amendment

In case ***of layering of*** information, it shall be possible to ***view, save and*** print the information referred to in paragraph 1 as one single document.

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU
Article 16a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States may maintain or adopt more stringent provisions on information requirements than those set out in this Article.

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU
Article 16b – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In case the trader substantially fails to provide the consumer with the necessary information or the contractual terms and conditions, the withdrawal period shall expire 14 days plus 12 months from the day of the conclusion of the distance contract.

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 2 – point a – introductory part

Text proposed by the Commission

Amendment

(a) **consumer** financial services whose price depends on fluctuations in the financial market outside the traders control, which may occur during the withdrawal period, such as services related to:

(a) financial services whose price depends on fluctuations in the financial market outside the traders control, which may occur during the withdrawal period, such as services related to:

Amendment 30

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 2 – point a – indent 8

Text proposed by the Commission

Amendment

— **crypto-assets as defined in [Article 3(1)(2) of Commission Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/193 24.9.2020 COM(2020) 593 final].**

deleted

Amendment 31

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16b – paragraph 5 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that, **for distance contracts concluded by electronic means**, the trader provides a possibility to use a withdrawal button in order to facilitate the consumer's exercise of the right of withdrawal. Such button shall be clearly labelled with the words 'Withdraw from Contract' or a corresponding unambiguous formulation.

Amendment

Member States shall ensure that the trader provides a possibility to use a withdrawal button in order to facilitate the consumer's exercise of the right of withdrawal. Such button shall be clearly labelled with the words 'Withdraw from Contract' or a corresponding unambiguous formulation **and shall be easy to find for the consumer. The use of the withdrawal button should ensure that the consumer can withdraw from the contract in a simple and rapid manner.**

Amendment 32

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/83/EU
Article 16b – paragraph 5 – subparagraph 2

Text proposed by the Commission

The withdrawal button shall be placed in a prominent manner and permanently available during the entire withdrawal period on the same electronic interface as the one used to conclude the distance contract. In addition, the trader may also provide the withdrawal button through another channel.

Amendment

The withdrawal button shall be placed in a prominent manner and permanently available during the entire withdrawal period on the same electronic interface as the one used to conclude the distance contract. **The confirmation email of the conclusion of a contract, if sent, shall also include a clearly visible withdrawal button.** In addition, the trader may also provide the withdrawal button through another channel.

Amendment 33

Proposal for a directive
Article 1 – paragraph 1 – point 2

Directive 2011/83/EU
Article 16b – paragraph 5 – subparagraph 3

Text proposed by the Commission

The trader shall ensure that the activation of the withdrawal button results in an instant confirmation notice to the consumer that the right of withdrawal has been exercised, which shall include the date and time of the exercise of the right of withdrawal. Confirmation of the exercise of the right of withdrawal shall be provided by the trader to the consumer on a durable medium.

Amendment

The trader shall ensure that the activation of the **simple** withdrawal button results in an instant confirmation notice to the consumer that the right of withdrawal has been exercised, which shall include the date and time of the exercise of the right of withdrawal. Confirmation of the exercise of the right of withdrawal shall be provided by the trader to the consumer on a durable medium.

Amendment 34

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16b – paragraph 5 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Consumers shall be required to identify themselves and the contract they wish to withdraw from. The consumer shall subsequently be asked to confirm the withdrawal from the contract with a button labelled ‘Withdraw from Contract’ or a corresponding unambiguous formulation.

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16c – paragraph 3

Text proposed by the Commission

Amendment

3. The trader shall, without any undue delay and no later than **within** 30 calendar days, return to the consumer any sums the

3. The trader shall, without any undue delay and no later than 30 calendar days, return to the consumer any sums the trader

trader has received from him in accordance with the distance contract, except for the amount referred to in paragraph 1. This period shall begin from the day on which the trader receives the notification of withdrawal.

has received from him in accordance with the distance contract, except for the amount referred to in paragraph 1. This period shall begin from the day on which the trader receives the notification of withdrawal.

Amendment 36

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/83/EU

Article 16c – paragraph 4

Text proposed by the Commission

4. The consumer shall return to the trader any sums he or she has received from the trader without any undue delay and no later than *within* 30 calendar days. This period shall begin from the day on which the consumer withdraws from the contract.

Amendment

4. The consumer shall return to the trader any sums he or she has received from the trader without any undue delay and no later than 30 calendar days. This period shall begin from the day on which the consumer withdraws from the contract.

Amendment 37

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish by [24 months *from* adoption] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish by ... [18 months *after the date of adoption of this amending Directive*] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 38

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

They shall apply those provisions from
[*the date after 24* months from adoption].

Amendment

They shall apply those provisions from ...
[*18* months *after the date of* adoption of
this amending Directive].

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC
References	COM(2022)0204 – C9-0175/2022 – 2022/0147(COD)
Committee responsible Date announced in plenary	IMCO 18.5.2022
Opinion by Date announced in plenary	ECON 18.5.2022
Associated committees - date announced in plenary	24.11.2022
Rapporteur for the opinion Date appointed	Stéphanie Yon-Courtin 21.6.2022
Discussed in committee	25.10.2022 30.11.2022
Date adopted	24.1.2023
Result of final vote	+: 51 –: 4 0: 1
Members present for the final vote	Rasmus Andresen, Anna-Michelle Asimakopoulou, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Engin Eroglu, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Valentino Grant, Claude Gruffat, José Gusmão, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Billy Kelleher, Georgios Kyrtos, Philippe Lamberts, Aušra Maldeikienė, Pedro Marques, Csaba Molnár, Denis Nesci, Dimitrios Papadimoulis, Piernicola Pedicini, Sirpa Pietikäinen, Eva Maria Poptcheva, Dorien Rookmaker, Joachim Schuster, Ralf Seekatz, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni
Substitutes present for the final vote	Herbert Dorfmann, Gianna Gancia, Eider Gardiazabal Rubial, Valérie Hayer, Eugen Jurzyca, Chris MacManus, Ville Niinistö, Erik Poulsen, René Repasi
Substitutes under Rule 209(7) present for the final vote	Susanna Ceccardi, Andor Deli, José Manuel Fernandes, Pierre Larrouturou, Theresa Muigg, Alessandro Panza

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

51	+
ECR	Denis Nesci
ID	Susanna Ceccardi, Gianna Gancia, Valentino Grant, France Jamet, Alessandro Panza, Marco Zanni
NI	Andor Deli
PPE	Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Herbert Dorfmann, Markus Ferber, José Manuel Fernandes, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Aušra Maldeikienė, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Engin Eroglu, Giuseppe Ferrandino, Valérie Hayer, Billy Kelleher, Georgios Kyrtzos, Eva Maria Poptcheva, Erik Poulsen, Stéphanie Yon-Courtin
S&D	Marek Belka, Jonás Fernández, Eider Gardiazabal Rubial, Eero Heinäluoma, Pierre Larrourou, Pedro Marques, Csaba Molnár, Theresa Muigg, René Repasi, Joachim Schuster, Paul Tang, Irene Tinagli
The Left	José Gusmão, Chris MacManus, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, Claude Gruffat, Philippe Lamberts, Ville Niinistö, Piernicola Pedicini, Ernest Urtasun

4	-
ECR	Michiel Hoogeveen, Eugen Jurzyca, Dorien Rookmaker, Johan Van Overtveldt

1	0
Verts/ALE	Stasys Jakeliūnas

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC			
References	COM(2022)0204 – C9-0175/2022 – 2022/0147(COD)			
Date submitted to Parliament	12.5.2022			
Committee responsible Date announced in plenary	IMCO 18.5.2022			
Committees asked for opinions Date announced in plenary	ECON 18.5.2022	JURI 18.5.2022		
Not delivering opinions Date of decision	JURI 13.6.2022			
Associated committees Date announced in plenary	ECON 24.11.2022			
Rapporteurs Date appointed	Arba Kokalari 8.7.2022			
Discussed in committee	26.10.2022	12.12.2022	6.2.2023	1.3.2023
Date adopted	28.3.2023			
Result of final vote	+: –: 0:	25 0 18		
Members present for the final vote	Andrus Ansip, Pablo Arias Echeverría, Brando Benifei, Adam Bielan, Biljana Borzan, Markus Buchheit, Anna Cavazzini, Dita Charanzová, Lara Comi, David Cormand, Alexandra Geese, Sandro Gozi, Maria Grapini, Krzysztof Hetman, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Kateřina Konečná, Andrey Kovatchev, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Antonius Manders, Beata Mazurek, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, René Repasi, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Róza Thun und Hohenstein, Tom Vandenkendelaere, Kim Van Sparrentak, Marion Walsmann			
Substitutes present for the final vote	Marc Angel, Vlad-Marius Botoș, Malte Gallée, Ivars Ijabs, Tsvetelina Penkova, Romana Tomc, Kosma Złotowski			
Substitutes under Rule 209(7) present for the final vote	Miriam Lexmann, Jan-Christoph Oetjen			
Date tabled	30.3.2023			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

25	+
ECR	Adam Bielan, Beata Mazurek, Kosma Złotowski
ID	Virginie Joron, Jean-Lin Lacapelle
PPE	Pablo Arias Echeverría, Lara Comi, Krzysztof Hetman, Arba Kokalari, Andrey Kovatchev, Miriam Lexmann, Antonius Manders, Andreas Schwab, Tomislav Sokol, Romana Tomc, Tom Vandenkendelaere, Marion Walsmann
Renew	Andrus Ansip, Vlad-Marius Botoș, Dita Charanzová, Sandro Gozi, Ivars Ijabs, Jan-Christoph Oetjen, Róza Thun und Hohenstein
Verts/ALE	Anna Cavazzini

0	-

18	0
ECR	Eugen Jurzyca
ID	Markus Buchheit
NI	Miroslav Radačovský
S&D	Marc Angel, Brando Benifei, Biljana Borzan, Maria Grapini, Maria-Manuel Leitão-Marques, Leszek Miller, Tsvetelina Penkova, René Repasi, Christel Schaldemose
The Left	Kateřina Konečná, Anne-Sophie Pelletier
Verts/ALE	David Cormand, Malte Gallée, Alexandra Geese, Kim Van Sparrentak

Key to symbols:

+ : in favour

- : against

0 : abstention