January 2022

Vanguard Asset Management Limited

Response to the ESMA Call for Evidence on the European Commission mandate on certain aspects relating to retail investor protection

1. Overview

Q1: Please insert here any general observations or comments that you would like to make on this call for evidence, including any relevant information on you/your organisation and why the topics covered by this call for evidence are relevant for you/your organisation.

About Vanguard

The Vanguard Group, Inc. – Vanguard's parent company – was founded in 1975 and is based in Pennsylvania. Vanguard's global assets under management (AUM) were just over €7.5 trillion (as of 30 November 2021).

In Europe, Vanguard has nearly 900 headcount based in London, Frankfurt, Berlin, Paris, Milan, Dublin, Amsterdam and Zurich. Further European expansion is a strategic objective for Vanguard. Vanguard's UCITS funds are domiciled in Ireland, with assets under management of approximately €200 billion (as of 30 November 2021). Our investors range from direct retail investors to institutional and intermediary investors, such as banks, pension funds, independent financial advisers and discretionary wealth managers.

Vanguard's core purpose is to take a stand for all investors, to treat them fairly, and to give them the best chance for investment success. One aspect that sets us apart from the rest of the asset management industry – and lets us always put investors first around the world – is the ownership structure of Vanguard in the US. Rather than being publicly traded or owned by a small group of individuals, Vanguard is owned by the US mutual funds and ETFs it manages. Those funds, in turn, are owned by their investors, meaning Vanguard is structured as a "mutual" fund company. This unique structure aligns our interests with those of our investors – benefiting investors worldwide – and drives the organisation's culture, philosophy and policies.

Our inspiration is to change the way the world invests. For more than 40 years we have advocated for the Vanguard way of investing – clear goals, balance, low costs, and discipline. These enduring principles have helped millions of people save for retirement, fund their higher education, or buy a new home. The investment industry has followed our lead, resulting in better outcomes for many more investors. Indeed, while investors can't control the markets, they can control the cost of investing. The funds and services we offer are amongst the lowest available in their peer groups; this is not a pricing strategy for us, it is how we do business and is good for the returns of our clients. Vanguard's scale also helps to keep costs low. As our assets increase, we can reduce costs for those that invest with us.

Relevance to Vanguard and summary of response

Vanguard is very supportive of the European Commission's Capital Markets Union (CMU) initiative, which aims to integrate capital markets to put European savings to better use, improve the efficiency through which savers and borrowers are matched, and increase the performance and competitiveness of the EU economy. We welcomed the Renewed CMU Action Plan and were particularly happy to see that the Commission intends to propose a dedicated Retail Investment Strategy. It is our view that getting an investor centric framework in place is crucial to for both European citizens and the EU's economy.

We value the work conducted by both ESMA and the European Commission to this end, in particular the commitment to a comprehensive package of initiatives to progress work on increasing retail investor engagement, including but not limited to the aspects related to the role of digitalisation in the areas of disclosure and advice consulted on in this Call for Evidence. Importantly, we support the holistic approach which the Commission has taken to the forthcoming Retail Investment Strategy, as per its consultation from earlier this year, to ensure that every part of the retail investor journey is made easier and more transparent. We also support ESMA's focus on the use of digital developments with the aim of increasing retail investor participation and ensuring a seamless investor journey, as addressed in this consultation.

We believe that these are crucial components of the development of a stronger capital market in the EU, which require a fine balancing act between the need for maintaining a high-level of investor protection while also encouraging citizens to save and invest for their financial future. Importantly, it is our view that this requires greater confidence amongst citizens and transparency to help investors make the right investment decisions – a goal more attainable through the increased use of digitalisation in financial services.

While the current framework goes some way in achieving this, we believe that there are a few things that can be done to fully realise this potential for citizens and help them feel more positive about their long-term finances. Overall, we need to (1) better engage society in their financial health and resilience and, (2) ensure that – when investment is the appropriate choice for citizens – the system delivers valuable outcomes. Digital developments play a crucial part in ensuring that we achieve the aforementioned goals as digitalisation can serve to make investing more attractive and affordable for a larger group of people.

Inducements. To achieve the goal of attracting more retail investors while retaining high level of investor protection, we need to first and foremost remove barriers to investing. The payment of inducements to financial advisers is one of the biggest challenges to this end as the payment of commission may negatively affect the quality and objectivity of advice given to retail investors by these financial advisers. Ensuring the provision of unbiased advice targeted to the profile of each investor is the key to providing savers and investors with the best chance of investment success. Whilst we do not dispute that increased transparency and disclosure of inducements under existing MiFID II provisions has the potential to mitigate the most adverse impacts of product providers paying commissions to intermediaries, we strongly support a further revision of MiFID II to ban the receipt and retention of all commission and inducements by intermediaries on the basis that these potential detrimental conflicts can only truly be addressed where the payment of commission by product providers to intermediaries ceases to exist. In our experience, where such prohibitions have been implemented, such as in the Netherlands and the UK, they have:

- Reduced the risk of intermediary conflicts of interest affecting the products that are purchased by/for end investors;
- Increased product access and competition, meaning a wider variety of products are available for investors to purchase; and
- Increased cost transparency.

Notably, the introduction of a ban on investments has allowed for an increasing differentiation between service concepts offering significant additional value compared to 'do-it-yourself' investing in jurisdictions where it has been implemented. The Dutch financial markets regulator (AFM) found that the ban on inducements has catalysed innovative technology developments and thus customers have a wider range of advice and guidance options that are better tailored to their needs – ranging from 'guided' execution, self-directed tools, automated advice, hybrid-advice and face-to-face traditional investment advice.

Disclosure rules. Issues persist with regards to EU consumers' access to consistent and comparable product and service material. In order to enable more consistent and comparable information, we support further simplification and harmonisation of disclosure rules. More specifically, retail investors would benefit from being able to access understandable and consistent information across different products (UCITS, PRIIPs and other comparable products) and services. Even where that is currently theoretically possible (e.g. costs disclosures under PRIIPs and MiFID II), the lack of a prescribed cost calculation methodology under MiFID II, acts as an obstacle to genuine comparability. Second, we believe that marketing-material requirements for retail investors should be further harmonised across the EU to enhance cross-border availability of funds and to ensure investors have consistency in information. Without the appropriate information presented in a consistent and digestible way, consumers are put at risk of making poor decisions in terms of their financial needs. Third, we need to continue the ongoing work on costs and charges as it is directly relevant to the chances of success of retail investors. For example, we would favour the introduction of a mandatory cost warning on all investment documents for consumers. High charges on products and services affect long-term returns. When consumers are made aware of the impact of charges on their net return, many would choose a cheaper product.

Advice. More should be done to provide consumers with a sliding scale of advice and guidance options, from (free) simple financial guidance through to (high-cost) traditional face-to-face advice. We remain unconvinced that the current MiFID II regime is as effective as it might be in enabling investors to have access to an open and competitive advice market that is free of potential conflicts of interest. The development of automated/robo-advice offerings is key to allowing firms to offer low-cost, technology-enabled advice, in order to meet the differing wants and needs of the investing public in the EU. In addition, technology-enabled advice could be helpful in ensuring that the younger generation is engaged with their finances and can make better investment decisions. The offering of advice would also be greatly improved with additional clarity from regulators on suitability requirements under any model of simplified advice. As things stand, firms appear reluctant to launch simplified advice models in the absence of definitive statements from regulators as to the information that an adviser is required to obtain to determine whether specific advice is suitable for a client or not. Moreover, the regulatory framework for advice and guidance could be further clarified, particularly as regards the definition of each and the distinction between the two. Policymakers should address the rigid distinction between guidance and advice to enable firms to provide a middle ground between execution-only services and advised offerings.

Digital. We need to empower citizens to make investment decisions in a less burdensome way. Digital developments have a key role to play here. Online comparison tools should be developed to help EU citizens find and compare suitable and cost-effective retail investment products across the EU’s capital markets. Technology could also help simplify what is too often a burdensome client onboarding procedure (e.g. use of Digital IDs and Open Finance). This will create a more bespoke and seamless onboarding experience for investors, whilst also reducing complexity and cost. In particular, Open Finance could extend the data sharing principles that underpin Open Banking to give consumers and small businesses greater control over, and access to their data. It could simplify the onboarding process, allowing consumers to auto-fill parts of the application. Open Finance could also expedite the suitability process undertaken by a financial adviser by enabling the adviser to have direct access to significant information about a consumer's financial situation, reducing the time and effort needed by both the adviser and the consumer to determine what is the most suitable advice for the consumer.

2. Call for evidence

2.2. Disclosures

Q2: Are there any specific aspects of the existing MiFID II disclosure requirements which might confuse or hamper clients' decision-making or comparability between products? Are there also aspects of the MiFID II requirements that could be amended to facilitate comparability across firms and products while being drafted in a technology neutral way? Please provide details.

We join the industry in supporting the European Commission's and the European Supervisory Authorities (ESAs)'s conviction that retail investors should always receive the highest level of investor protection as well as suitable disclosures that can enable and inform their investment decisions. In fact, we believe that making cost and charges disclosures clear, simple, accurate and comparable is key to ensuring that EU investors access simple high-quality and low-cost products.

At the same time, similarly to our peers, we also believe that it is essential that regulation prioritises the provision of information that is genuinely useful and relevant to retail investors. For example, while the existing MiFID requirements on costs and charges disclosures have increased the information available to investors, they have also caused an unfortunate degree of confusion for retail investors. Extensive granular transparency on elements of costs and charges that are not understood and are often not sufficiently explained by intermediaries have arguably become more of a hindrance to many retail investors than a help.

The advent of new digitally based services for clients should be a boom for transparency that makes it easier for investors to compare products and services. However, even with the addition of the MiFID II cost and charges framework, it is still very difficult for investors to undertake competitive price comparisons.

In fact, we frequently uncover in consumer user research that investors are often not able to articulate how much they pay for investing or advice services. Importantly, it does not help that providers disclose costs in many different formats. Therefore, ease of competitor comparison from both a price and product feature lens should be addressed as a matter of priority.

First, it is important to point out that for retail investors, the disclosures in the PRIIP KIDs are not aligned with those provided to consumers pursuant to MiFID II. This results in retail investors receiving diverging and contradicting figures and makes the creation of digital comparison tools which cover all retail investment products practically impossible. It is therefore essential that a review of the PRIIP KID ensures that its information is aligned with MiFID II and presents essential cost figures to potential investors (please see response to Q4 for more information).

Second, Vanguard is very supportive of the creation of a pan-EU regulatory interface that will enable clients to compare retail investment products and make better informed choices. While we recognise the possibility of such a tool being operated by commercial provider(s), we would prefer the operator to be a regulatory body since non-transparent commercial arrangements and potential conflicts of interest can have a sub-optimal influence on the results displayed by commercial comparator tools.

With regards to the operation and functionality of such an interface, we would recommend a number of guiding principles: (i) access to the database should be free of charge and broadly accessible; (ii) unbiased inclusion of the broadest range of retail investment products; (iii) broad functionality allowing the selection and comparison of various different features, (iv) accurate and timely data storage and access with broad interoperability, and (v) use of state-of-the-art reliable technology platforms to provide optimal cybersecurity protection.

Admittedly, current data constraints mean that at this time it is not always possible to meaningfully compare UCITS and other PRIIPs retail investment products, as evidenced by ESMA's second annual costs and charges report. Therefore, we support the idea of a phased introduction of such an EU-wide database, starting with products where the required data already exists. In order to eventually achieve full coverage, it might be necessary that ESMA mandates disclosure of certain information to it by investment services providers. Although this could amount to additional reporting burden, Vanguard would be supportive of this as long as it facilitates the establishment of an EU-wide database that provides the opportunity for investors to make an educated comparison between different products and providers.

Third, we welcome the updated rules on cross-border distribution of investment funds as part of the Cross-border distribution of investment funds Directive (CBDF) and are particularly supportive of the requirement for a centralised ESMA database that brings together national marketing requirements. However, we still believe that greater harmonisation of requirements applicable to investment product and services marketing material for retail investors would help investors — both in terms of the range of products and services available and the costs related to investing. We regard the standardisation of marketing materials across borders to be fundamental if all EU investors are to make informed decisions based on their specific needs.

With the above in mind, we would like to stress that while improving (digital) disclosure is indeed a key element of the forthcoming Retail Investment Strategy, it is only one element of a bigger set of tools that should be employed to ensure that retail investors make the right investment decision. Enabling access to high-quality unbiased advised and increasing the level of financial literacy are examples of two other key elements.

Q3: Are there specific aspects of existing MiFID II disclosure requirements that may cause information overload for clients or the provision of overly complex information? Please provide details.

We believe that digital developments have a key role to play in ensuring people get the help they need in accessing the best and fairest deal, especially as it pertains to ensuring more transparency.

Retail investors in Europe face huge challenges in collecting information, comparing data, and getting good quality advice on the different products on offer. Therefore, we need to simplify disclosure to tackle information overload.

Technology-enabled interactive disclosures where consumers can start with clear, simple, and comparable information and drill through into further detail as needed (please see response to Q2 and Q12) would be the ideal outcome for retail investors. Vanguard is also very supportive of machine-readable pre-contractual disclosure information. As mentioned above, digital comparison tools should be developed to allow consumers to filter, select and compare investment products, aligned to predetermined criteria such as returns, expense and location, in order to help them make better-informed decisions.

Alongside the introduction of a mandatory cost warning in all investment documents for consumers (please see response to Q42), and the development of a range of innovative advice and guidance options (please see responses to Q18 and 22), the development of tools to enable easy and accessible cost comparison is key for ensuring that investors make well-informed decisions for their financial future. The development of such tools is, however, premised on having information with regards to costs and charges in a digital form (please see response to Q2 and Q12).

Q4: On the topic of disclosures, are there material differences, inconsistencies or overlaps between MIFID II and other consumer protection legislation that are detrimental to investors? Please provide details.

We join the industry in maintaining that in the current regulatory framework, investor protection rules are often misaligned, in particular as it pertains to investment products and services falling under MiFID II (and PRIIPs) and insurance-based products covered by the IDD. To name a couple of examples, MiFID II and IDD substantially differ in how financial advice is paid for and disclosed to clients (please also see response to Q18) and there is a misalignment between MiFID II and PRIIPs as it pertains to the different cost figures that need to be produced. Furthermore, limitations as it pertains to marketing rules and risk warnings imposed by the existing frameworks may even hinder retail investor participation. As a result, we support the industry view that there is a need to holistically reassess investor protection rules under MIFID II, PRIIPs, and IDD.

Similarly to our peers, we see examples of misalignment between the different legislative regimes in three main areas – cost information, performance information, and risk information.

First, there are substantial inconsistencies between MiFID and PRIIPs in how cost information is calculated and presented to investors.

For example, the disclosure of the payment of inducements to financial advisers by product providers is not done in a consistent manner - it can be shown as a service cost in MiFID ex-ante and ex-post disclosures and as a product cost in the UCITS KIID and PRIIPs KID. In addition, we regret that the European Supervisory Authorities (ESAs) decided against reviewing the PRIIPS RTS as they relate to the estimation on transaction costs. We believe that as a result of the current PRIIPs cost methodology, consumers' need for meaningful and helpful information is being overlooked in pursuit of a highly technical approach that demands counter-intuitive yet technically accurate explanations.

In more detail, it is our view that implicit transaction costs should be presented as they have actually been incurred instead of as a “reduction-in-yield”. In addition, implicit costs are estimated using a methodology which contains market noise and, depending on how the market has behaved, can result in negative cost numbers. This is because the estimation methodology has originally been designed to measure “best execution”, rather than to express cost.

Second, the two frameworks provide for a different approach to performance disclosure. On the one hand, MiFID requires an explanation on the “functioning and performance of the financial instrument in different market conditions, including both positive and negative conditions”. If past performance is shown, it is required that a clear warning is provided to investors highlighting that past performance is not indicative for future returns. On the other hand, the current PRIIPs KID requires the disclosure of future performance scenarios i.e. to show performance as a forecast of returns that someone may expect to get in the future based on past returns that are not shown at all. The revised PRIIPs RTS went some way to alleviate the problem by allowing funds to produce product performance scenarios based on historical instead of future scenarios but we join the industry in calling for the clear inclusion of past performances in the PRIIPs KID as part of a Level 1 revision of the Regulation. We would like to note that the European Supervisory Authorities (ESAs) also argued in favour of “including past performance information within the main contents of the KID on the basis that it is key information to inform retail investors about the risk-reward profile of certain types of PRIIPs” as part of the revised PRIIPs KID RTS.

Third, substantial differences exist between MIFID II and PRIIPs as pertains to risk information. More specifically, the former does not contain a standardised risk measure like the PRIIPs Summary Risk Indicator (SRI). A form of the SRI could be used for risk disclosure purposes under MiFID, thereby creating the necessary alignment.

In addition, we believe that different rules on marketing and advertising of investment products constitute an obstacle for retail investors to access and compare products. We therefore believe that marketing-material requirements for retail investors should be further harmonised across the EU to enhance cross-border availability of funds, to ensure investors have consistency in information about the products and services they are being offered, and to reduce costs. Without the appropriate information presented in a consistent and digestible way, consumers are put at risk of making poor decisions, unsuitable for their financial needs (please see response to Q2).

Indeed, it is a legitimate question to ask why the information and investment needs of a consumer in, for example, France are currently different from a similar consumer in Denmark when buying the exact same non-complex UCITS fund. Divergence in Member State approaches to the definition of marketing communications (e.g., financial promotions, advertisements, investor letters) and differing “pre-approval” of such communications, has created uncertainty as to the efficient provision of information to investors and distributors. The difference in Member State approaches has added to the complexity of complying with the CBFD. We therefore welcome the recent guidance published by ESMA to this end and would encourage the introduction of a harmonised definition of “marketing communications” and a single set of requirements for the content of these communications as a way of offering more consistent and comparable information and reducing costs for the end-investor.

As stated in our response to Q2, while CBFD was helpful in addressing some barriers to the efficient cross-border marketing of investment funds across the EU, the relevant parts of MiFID are inscribed into a Delegated Directive which requires national implementation. This in turn is likely to result in diverging requirements and national gold plating as opposed to the creation of a standardised EU approach. Thus, with the Retail Investment Strategy in mind, we would encourage the European Commission to build on the reforms in the CBFD by developing a pan-EU marketing and advertising regime as part of the MiFID framework, including a harmonised approach to marketing communication that is tailored to the medium of communication.

Q5: What do you consider to be the vital information that a retail investor should receive before buying a financial instrument? Please provide details.

As outlined in our response to Q2, we consider it critical that all investors (and particularly retail investors) have clear and concise information that allows them to make an informed investment decision based on information pertaining to product features, costs, past performance, and risks. Similarly to our peers, we believe that past performance information is critical for a retail investor's understanding of investment products.

At the same time, we support eligible counterparties (ECPs) and professional clients being able to opt out of MiFID II pre-transaction costs disclosures as our experience suggests that institutional clients do not value or use the ex-ante disclosures mandated by MiFID II and therefore the effectiveness of providing such disclosures has proven itself negligible. In our experience, institutional clients have the required knowledge and sophistication to ascertain the information relevant to their investment activity prior to trading and therefore already have a strong appreciation of the importance of understanding costs and charges. At the same time, producing MiFID II costs and charges information has cost and resource implications for asset managers. As a result, MiFID II's costs and charges requirements do not pass a cost benefit analysis in respect of ECP and professional investors. We believe that opt-outs could apply to ex-post information too. In many cases, professional investors negotiate bilaterally what type of information they wish to receive which means that the standardised ex-post information presents no additional value to them.

The same flexibility should also be extended to non-EU clients as the standardised EU disclosures may not be in line with their national regulatory disclosure regimes or their needs.

Exempting professional clients and ECP clients from the entire MiFID II costs and charges disclosure regime could also facilitate the use of established domestic regimes or industry standards (e.g. pension scheme requirements in the Netherlands) without duplication.

However, we wholeheartedly oppose the idea that **all** client categories should be able to opt out of MiFID II's ex-ante cost information requirements. Although (as outlined above) we consider that improvements can be made to MiFID II's costs and charges requirements, the current MiFID II requirements should continue to apply in respect of retail investors as the average retail consumer does not typically proactively research the cost of investing. We would also oppose allowing retail clients the possibility of opting-out of ex-ante costs and changes information, since we would be concerned that a poorly informed investor could agree to such an opt-out without fully understanding the consequences of doing so.

Please also see response to Q42.

Q6: Which are the practical lessons emerged from behavioural finance that should be taken into account by the Commission and/or ESMA when designing regulatory requirements on disclosures? Please provide details and practical examples.

We echo the conclusions of the European Commission (as per the 2020 CMU Action Plan) that the lack of financial literacy is one of the main barriers to investment. To address the issue with a view of encouraging greater retail investor participation, we believe that it is important not only to encourage European citizens to get the education they need to understand their finances but also give them the societal infrastructure to become and remain aware of their overall financial health throughout their lives.

Operationalising this approach requires a long-term and comprehensive strategy. However, we believe there are a few behavioural “nudges” which can help kick start the process as it pertains to assisting citizens to take the initial steps towards engaging in their financial health – for example, pensions dashboards, pensions auto-enrolment and default investments. These behavioural tools have already proven useful in jurisdictions such as the Netherlands and the UK. In more detail:

- Pensions dashboard - Being able to see one’s savings in one place, through a pensions dashboard, would be very beneficial in enabling citizen to better plan for and manage their retirement by enabling them to see how they are doing against their goals. Evidence from the Netherlands suggests that pensions dashboards can encourage consumer engagement with pensions by making them more tangible and visible.

- Auto enrolment – Vanguard’s experience from the UK shows that the introduction of auto-enrolment into a work pension scheme has particularly helped in increasing coverage of pension saving by younger and low-to-moderate income workers.

- Default savings solutions - Default savings solutions that are designed to be suitable for specific cohorts of investors can be a powerful entry tool for engaging with hesitant investors. They are particularly powerful if designed with in-built risk mitigation features to meet a specific goal (such as a predetermined retirement age with a default pensions product).

Q7: Are there any challenges not adequately addressed by MIFID II on the topic of disclosures that impede clients from receiving adequate information on investment products and services before investing? Please provide details.

No response.

Q8: In case of positive answer to one or more of the above questions, are there specific changes that should be made to the MiFID II disclosure rules to remedy the identified shortcomings? Please provide details.

No response.

Q9: On the topic of disclosures on sustainability risks and factors, do you see any critical issue emerging from the overlap of MiFID II with the Sustainable Finance Disclosure Regulation (SFDR) and other legislation covering ESG matters?

We join our peers from the industry in expressing concern with regards to a number of sequencing issues causing practical challenges to the implementation of the amendments integrating ESG considerations into MIFID II. This has become particularly true following the deferral of the application date of the SFDR Level II and the entity-level reporting requirements under the Article 8 Taxonomy Regulation Delegated Act.

As the implementation of the amendments to MiFID II in relation to sustainability preferences relies largely on pre-contractual and periodic disclosures under SFDR and the Taxonomy Regulation, it is proving particularly challenging for investment managers and distributors to adequately implement the new rules in a way which translates the new requirements into clear client preferences and aligns the target market assessments with the new client sustainability categories.

In more detail, similarly to our peers, we have found the operationalisation of amendments to MiFID incorporating sustainability preferences challenging due to uncertainty with regards to:

- Pre-contractual and periodic disclosure in relation to the percentage of sustainable investments (Art.8 and Art.9 SFDR products) – These obligations will apply from 1st January 2023 (as prescribed by the revised SFDR RTS). There are no obligations under SFDR that could allow product manufacturers and distributors to make this information available in time for 2nd August 2022.

- Pre-contractual and periodic disclosures in relation to the percentage of environmentally sustainable investment under the Taxonomy Regulation and/or Taxonomy alignment for Article 8 and 9 SFDR products – These obligations are being phased in from 1st January 2022 in respect of the first two environmental objectives and from 1st January 2023 in respect of the remaining four environmental objectives. In addition, it is important to note that products will not be able to commit to a 'minimum proportion' of investments in line with the Taxonomy (as prescribed by Article (7a) of MiFID II Delegated Regulation) before 1st January 2024. In fact, according to the new text of the Article 8 Taxonomy Regulation Delegated Act (as adopted by the European Commission on 6th July 2021), non-financial undertakings' Taxonomy reporting obligations will only start in January 2023, for the 2022 reporting periods. This means that no fund will be able to accurately provide the proportion of its taxonomy-alignment before January 2024 for a reporting period of 2023 (i.e. when investee companies start reporting on Taxonomy alignment in January 2023).

- Pre-contractual and periodic disclosures in relation to PAI consideration at the product level required under Article 7(1) SFDR – These obligations will only be implemented from 30th December 2022 (i.e. before investee companies start reporting on Taxonomy-alignment in January). Before that date, the standardised annexes to pre-contractual disclosures for Article 8 and Article 9 SFDR products will only contain a brief indication of whether PAIs are taken into account as part of the investment strategy.

Q10: Are there any other aspects of the MiFID II disclosure requirements and their interactions with other investor protection legislations that you think could be improved or where any specific action from the Commission and/or ESMA is needed?

Please see response to Q4.

Q11: Do you have any empirical data or insights based on actual consumers' usage and engagement with existing MiFID II disclosure that you would like to share? This can be based on e.g., consumer research, randomized controlled trials and/or website analytics.

No response.

2.3. Digital disclosures

Q12: Do you observe a particular group or groups of consumers to be more willing and able to access financial products and services through digital means, and are therefore disproportionately likely to rely on digital disclosures? Please share any evidence that you may have, also in form of data.

We have seen increasing levels of interest and investment by the younger generation. For example, the demographic of investors in Vanguard's UK direct-to-consumer-business is weighted towards younger investors – approximately 35% of all investors are aged 30 or under with 70% under the age of 45.

To ensure a more seamless retail investor journey, we support proposals to reduce the amount of paper-based information that firms are mandated to provide customers with, taking account of increasing consumer preferences across all client groups, cost implications and environmental impact. At the same time, we are cognisant that a fully digital/paperless approach may not always be achievable.

Indeed, in the UK Vanguard operates a successful digital, direct to retail client investment platform (UK Personal Investor) in which most documentation is delivered digitally through a secured messaging interface with clients. By way of example, the types of documents delivered digitally include costs and charges disclosures, fund prospectuses, account terms and conditions. In the vast majority of cases this is both an appropriate and effective way of providing documentation. For example, it allows us to update terms and conditions in real time within a personalised and secure customer environment without the need to resort to multiple iterations of paper-based documents, which are costly to circulate to a large multitude of clients. For certain clients, however, particularly vulnerable clients, we do provide access to paper-based documentation. In instances where the client may not have access to digital media or prefers to engage with paper-based information we believe it is right that regulation shouldn't place these groups of customers at a detriment. An ability for investors to opt-in to receipt of paper-based documents should therefore remain, ensuring investors who may not have the appropriate technology to receive documentation digitally can still access all necessary documentation in a format that suits their needs.

On a more practical level, we believe that the objective of reducing the amount of paper-based information should initially be brought about through revisions to existing legislation. For example, several aspects of the existing regulatory framework continue to envisage the use of "documents" for investor disclosures (e.g. the UCITS KIID and PRIIPs KID must be produced on A4-size "paper"). While these disclosures can be provided in a durable medium other than paper (e.g. online), the requirement to necessarily produce them in a document format (e.g. PDF) is not conducive to all forms of digital device (e.g. mobile phones) and may actually disincentivise investors from consuming the information if they are inconvenient or challenging to access or read (e.g. if an investor must "zoom in" to read a PDF on a mobile phone screen).

Q13: Which technical solutions for digital disclosures (e.g., solutions outlined in paragraph 27 or additional techniques) can work best for consumers in a digital - and in particular smartphone- age? Please provide details on solutions adopted and explain how these have proven an effective way to provide information that is clear and not misleading.

As stated throughout our response, we believe that investor communication that is clear, concise, engaging, and helpful is needed to help consumers make informed investment decisions – this is true for both digital and paper-based disclosure. As we strongly support efforts to increase transparency as it pertains to the costs and charges, it is imperative that costs are given equal prominence to all other aspects in both disclosure and marketing material. We believe that certain key information – fees, charges, payment of inducements, and information relative to performance – should always be prominently displayed.

In addition, we need to ensure that the delivery of this information is adapted for use on different kind of devices (e.g. through the use of digital layering). Investor needs increasingly require digital formats with information layered to render it more accessible sequentially, rather than consumers being overloaded with all information in a single one-time disclosure. In this respect, we consider the more interactive approach envisaged in respect of the PEPP KID to be a step forward vis-à-vis the existing paper-based UCTIS KIID and PRIIPs KID.

Q14: Would it be useful to integrate any of the approaches set out in paragraph 27 above in the MIFID II framework? If so, please explain which ones and why.

No response.

Q15: Should the relevant MIFID II requirements on information to clients be adapted in light of the increased use of digital disclosures? If so, please explain how and why.

Please see response to Q12.

Q16: Do you see the general need for additional tools for regulators in order to supervise digital disclosures and advertising behind 'pay-walls', semi-closed forums, social media groups, information provided by third parties (i.e., FIN fluencers), etc? Please explain and outline the adaptions that you would propose.

We join the industry in calling for the same level of investor protection to be imposed by regulation irrespective of the medium by which products or services are distributed. Similarly to our peers, we have observed that recent issues with regards to advertising and marketing of investment products (please see response to Q2 and Q4) have less to do with insufficient investor protection rules as it pertains to the distribution of financial products in an online context, and more to do with certain actors not being properly supervised and/or not in scope of the current framework. Thus, we echo industry calls for the European Commission as well as national and European supervisors to prioritise action that ensures that all financial actors are properly licensed and regulated.

2.4. Digital tools and channels

2.4.1. Robo-advisers

Q17: To financial firms: Do you observe increased interest from retail investors to receive investment advice through semi-automated means, e.g., robo-advice? If yes, what automated advice tools are most popular? Please share any available statistics, data, or other evidence on the size of the market for automated advice.

A recent study by the European Parliament, analysing to what extent the current EU legal framework provides effective investor protection for customers of robo-advisors, found the world-wide market for robo-advisory services to be quickly growing in size and becoming increasingly popular amongst younger investors.

Between 2017 and 2020, the global robo-advisory market has seen annual growth of more than 50% to USD 1,068 trillion and is expected to triple by the end of 2025. The leading global market is the US with nearly all big investment funds based in the US starting to offer robo-advisory services in the past decade.

In comparison, the European market size is of a relatively modest AUM – USD 108 billion compared to the USD 680 billion in the US (2020) – with the biggest national markets being UK, Italy, France, and Germany (USD 18, 15, 13, and 9 billion respectively).

At the same time, our internal research has found that German robo-advisers' AUM increased by 236% between 2015 and 2018 and by 37% between 2018 and 2021, demonstrating the significant potential for steady growth of these services. Currently, there are more than 20 robo-advisers operating in the German market with differing value propositions.

Vanguard strongly believes that the further development of a range of technology-enabled investment guidance and advisory solutions by firms is necessary to better allow EU consumers to receive the advice they require at a price they are prepared to pay. Moreover, the development of automated/robo-advice offerings is likely to stimulate competition, further innovation as well as new and more affordable services. We thus echo the conclusion of the three European Supervisory Authorities as per the Discussion Paper on financial advice automation that automated advice has three primary benefits: reduced consumer cost; widened, democratised access to financial products; and, improved service quality arising from 24/7 availability, greater consistency and the most up-to-date data and information

As the total charges for holistic advice services can be relatively high compared to automated offerings, we firmly believe that technology-enabled advisory solutions have an important role to play in providing affordable and accessible advice to investors, with consumers standing to benefit greatly from increased competition in the market. In addition, technology-enabled advice could be helpful in ensuring that the younger generation is engaged with their finances and can make better investment decision.

We understand through our own research that younger consumers are increasingly technology literate and far more likely to utilise robo or digital investment management services and this trend is only likely to continue/increase over the coming years. As there is a significant investor demand for low-cost, technology-enabled advice, while such services have yet to really take off in the EU (versus the U.S. in particular), we remain unconvinced that the current MiFID II regime is as effective as it might be in enabling investors to have access to an open and competitive advice market that is free of potential conflicts of interest. As a result, we encourage the ESMA and the European Commission to reassess the effect of the current inducements regime in this regard (please see response to Q18).

Q18: Do you consider there are barriers preventing firms from offering/developing automated financial advice tools in the securities sectors? If so, which barriers?

According to the European consumer organisation Better Finance, the reason why robo-advice has not truly developed as a competitive distribution channel in the EU is two-fold: (i) the issue of trust (in the financial system as a whole) and (ii) the perception that robo-advisers are expensive (as they tend to operate on the base of a fee-based model, whereas incumbents continue to rely on the receipt of inducements from product providers).

Similarly, the Norwegian Consumer Council found that some of the common negative perceptions about robo-advisers change markedly if investors are made aware of costs and conflicts of interest issues. Their survey showed that consumers reacted negatively when they learned that traditional intermediaries earned more from selling expensive funds than lower-cost funds. With this information in mind, only 23% of Norwegian consumers had strong or fairly strong trust in human advisers.

We echo the conclusions of both consumer organisations and thus believe that delivering alignment of interest in Europe's distribution models is the primary way for policymakers to increase consumer trust and the availability of technology-enabled advice. The EU should introduce a ban on all product provider commission payments to investment intermediaries. This would enable the development of a wider range of innovative advice options to meet the differing wants and needs of the investing public in the EU.

In our experience, where such prohibitions have been implemented, such as in the Netherlands (in 2014) and the UK (in 2012), they have:

1. Reduced conflicts of interest in advice.
2. Encouraged the introduction of more cost-effective investments products.
3. Led to the increased differentiation between service concepts, including through the development of technology-enabled advice services, and thereby increased the overall competitiveness of the retail investment market.

When introduced alongside measures encouraging the development of a sliding scale of advice and guidance options and the professionalisation of the investment adviser occupation, the ban on inducements has stimulated retail investor participation, lowered the overall costs of investing for everyday investors, and improved the overall state of the advice market, particularly in terms of the provision of technology-enabled advice.

In more detail, according to the Dutch financial markets regulator - AFM – the introduction of a ban on inducements has led to the further development of service concepts that offer significant additional value compared to 'do-it-yourself' investing - examples include 'guided execution only' and more cost-effective portfolio management propositions, in addition to more comprehensive and expensive bespoke advice.

The AFM also believes that the ban on inducements has encouraged innovative technology developments, which have been visible in the Netherlands through the fast growth of robo-advice offerings in particular.

According to a Board Member of the AFM, as a result of the ban, manufacturers have also started to reduce prices. A number of manufacturers have reduced their prices by roughly 50%. The increased competition has meant that intermediaries have had to improve the quality of their services too – rather than being motivated by the most favorable distribution retrocession, they are now more focused on providing the best mix of products and services to best serve their clients' needs. In fact, academic research also suggests that when sales personnel are motivated by the highest possible fees in their dealings with less knowledgeable clients, the main competition factor shifts from low prices to high fees.

In the UK, the results from the FCA Retail Distribution Review (RDR) and the Financial Advice Market Review (FAMR) have shown significant improvements in the advice market since the introduction of the ban too:

- The numbers of individuals receiving advice has increased – most recently approximately 8% (4.1m) of all UK adults have received financial advice, an increase from 6% (3.1m) in 2017.

- Adviser numbers have increased from 35,000 in 2012 to 36,400 in 2019 (4% increase).
- Estimated assets under automated advice services increased from £0.4bn in 2016 to £3.2bn in 2019.
- Consumer awareness of automated advice has increased, with 19% of consumers reporting having heard of these services (compared to 10% in 2017).
- In the cases when investors did not seek advice, a survey carried out as part of the FAMR Review found that the main reason for not taking advice was not having a need for it, or deciding to make decisions on their own, rather than any explicit issues with accessibility.
- Consumer engagement with their financial affairs has increased since the introduction of the new rules. 62% reported being moderate to highly knowledgeable of financial matters (up from 54% in 2017), while 61% saw themselves ‘confident and savvy’ consumers ‘when it comes to financial services and products’ (up from 52% in 2017).

Additionally, the commission ban increased the competition between product manufacturers and thus lowered the prices for consumers. The FCA study showed an increase in price pressure (in the form of more protracted negotiations between advisers and product manufacturers) and that advisers have increasingly sought the most cost-effective product for their client, rather than searching for the product that attracts the highest commission for themselves.

Overall, it can be concluded that markets where bans on commission-based sales practices have been introduced – the UK and the Netherlands – are characterised by a diversified set of service offerings available to retail investors, including a growing number of technology-enabled advice and guidance options and lower fees for investors.

Q19: Do you consider there are barriers for (potential) clients to start investing via semi-automated means like robo-advice caused by the current legal framework? If so, please explain and outline what you consider to be a good solution to overcome these barriers.

Please see response to Q18.

Q20: In case of the existence of the above-mentioned barriers, do you have evidence of the impact that they have on potential clients who are interested in semi-automated means? For instance, do they invest via more traditional concepts or do they not invest at all?

Please see response to Q18.

Q21: Do you consider the potential risks and opportunities to investors set out above to be accurate? If not, please explain why and set out any additional risk and opportunities for investors.

We believe that the development of a range of innovative advice and guidance options for retail investors should be encouraged. Having a sliding scale of advice and guidance options, including low-cost, technology-enabled advice, would help ensure that the different wants and needs of the investing public in the EU are met.

To this end, we would like to highlight research by the consumer organisation Better Finance which has shown that the automation of the advice process reduces costs, and improves net returns. In the EU robo-advice fees range from 0.55% to 1.65%, whereas traditional advisers typically charge in excess of 1%.

Furthermore, in a previous iteration of their study into robo-advice, Better Finance also looked at the extent to which automated financial advisery services managed to deliver personal investment advice to consumers with limited financial competence. Better Finance created two client profiles and sent them out as 'mystery shoppers'. On a general level, the study shows that the different robo-advice platforms were able to provide differentiated individual investment advice in line with the expectations of a human adviser.

In the latest iteration of their robo-advice series, Better Finance concludes that automated financial advice services are on average less expensive than their traditional counterparts and can offer individual investors better value for money. In large part thanks to these low fees, Better Finance believes that robo-advice can play a crucial role in attracting retail investors to invest for their long-term financial future.

We echo the conclusion of Better Finance and would thus like to encourage the European Commission and ESMA to intensify their work as it pertains to enabling the further development of technology-enabled advice and guidance options. As argued in our response to Q18, by banning inducements and thereby enabling the development of a wider range of innovative advice options, European policymakers would guarantee that citizen have access to unbiased advice, suitably targeted to the profile of each investor and thus the best chance of investment success.

Q22: Do you consider that the existing MiFID regulatory framework continues to be appropriate with regard to robo-advisers or do you believe that changes should be added to the framework? If so, please explain which ones and why.

To stimulate the offering of more technology-led advice options, we encourage the European Commission to reassess the effect of the current inducements regime in this regard and effectively ban the payment of a commission to intermediaries.

As robo-advice is often fee-based, the dominance of the commission-based sales model does not allow for the development of a range of innovative advice and guidance options (please read our response to Q18 for more information).

At a minimum, more could be done to ensure that existing rules requiring commission payments to be in the interests of consumers are enforced (i.e. consistent enforcement of existing MiFID II inducements rules). In more detail, there have been diverging approaches taken by EU competent authorities in relation to payments received by intermediaries from product providers which has led to some countries adopting a broader interpretation of what qualifies as sufficiently enhancing the quality of service to consumers to justify receipt of inducements, while others have adopted a more restrictive interpretation. As a result investors across the EU have enjoyed very different levels of transparency and investor protection depending on the jurisdiction in which they are based. For example, a review study by the Danish Financial Supervisory Authority into whether commission payments in the Danish market were designed to enhance quality of service found that there are widely differing interpretations of what constitutes quality enhancement under the MiFID II rules. Therefore, we echo the conclusions from ESMA's review of the impact on inducements on costs and charges, which identified a number of issues with the current regime. Notably, we support ESMA's recommendations to the European Commission as it pertains to clarifying further the definition of the quality enhancement conditions (Article 11(2) of Delegated Directive (EU) 2017/593) and leveling the playing field as regards the distribution of non-MiFID products.

In this regard, we also note our support for ESMA's updated Q&A on inducements. The updated Q&A includes a new question (Number 8) in the Inducements section of the Q&A, which clarifies the conditions under which inducement payments are justified under the current MiFID II regime. In doing so, ESMA has arguably tightened the existing three-limbed test under Art 11(2)(a) of MiFID II as regards the requirement that justified inducement payments relate to: (i) an additional or higher-level service; (ii) are provided to the relevant client; and (iii) are proportionate to the service provided. While this is a positive step towards ensuring that the current rules are not being misused to the detriment of the retail investors, we still believe an outright ban would be preferable (please see response to Q18 above).

In addition, in line with the Commission's goal of making financial services legislation fit for the digital age, we believe that the European Commission and European regulators can catalyse technology-enabled advice offerings in the EU by making some further clarifications in the applicable regulatory framework especially as it pertains to suitability requirements.

As things stand, firms appear reluctant to launch simplified advice models in the absence of definitive statements from regulators as to the information that an adviser is required to obtain to determine whether specific advice is suitable for a client or not. Additionally, it would be helpful to have more MiFID II guidance on how risk capacity and suitability is measured in a digital environment. There is a fear of being judged noncompliant at a later stage by those same regulators with the benefit of hindsight.

Moreover, the regulatory framework for advice and guidance could be further clarified, particularly as regards the definition of each and the distinction between the two. Policymakers should address the rigid distinction between guidance and advice to enable firms to provide a middle ground between execution-only services and advised offerings.

2.4.2. Online brokers (lessons from the GameStop case)

Q23: Do you think that any changes should be made to MiFID II (e.g., suitability or appropriateness requirements) to adequately protect inexperienced investors accessing financial markets through execution only and brokerage services via online platforms? If so, please explain which ones and why.

In accordance with our response to Q16, and in line with the industry view on the matter, we call for the same level of investor protection to be imposed by regulation irrespective of the medium by which the products or services are distributed.

Q24: Do you observe business models at online brokers which pose an inherent conflict of interest with retail investors (e.g., do online brokers make profits from the losses of their clients)? If so, please elaborate.

Please see response to Q18.

Q25: Some online brokers offer a wide and, at times, highly complex range of products. Do you consider that these online brokers offer these products in the best interest of clients? Please elaborate and please share data if possible.

We believe that although an extensive array of investment options can be appealing to consumers, retail investors in particular, would benefit from the availability of 'kitemarked' investment products (e.g. a sub-set of UCITS) that are officially recognised as low-cost, broadly diversified and easy to understand. These products should be recognised as appropriate to be sold with, or without, advice. Research has found that choice can hinder motivation to invest, therefore, consumers can benefit from regimes that simplify matters by directing them such 'default' or 'kitemarked' investments.

If commission payments to advisers and platforms are banned, as we argue in our response to Q18 of this consultation, there won't be the same intermediary bias against selling simple, low-cost investment products as there is currently and thus such 'kitemarked' products can be expected to gain popularity.

In addition, as consumers gain access to more and more products, they may benefit from EU-approved products which would essentially enable them to easily find a simple and low-cost product suitable to their needs, without getting lost in the variations of products currently available. Such approach would be similar to the one taken by the European Commission as it pertains to ESG products, where the European Commission has already proposed the creation on an Ecolabel.

Q26: One of the elements that increased the impact on retail investors in the GameStop case was the widespread use of margin trading. Do you consider that the current regular framework sufficiently protects retail investors against the risks of margin trading, especially the ones that cannot bear the risks? Please elaborate.

No response.

Q27: Online brokers, as well as other online investment services, are thinking of new innovative ways to interact and engage with retail investors. For instance, with "social trading" or concepts that contain elements of execution only, advice, and individual portfolio management. Do you consider the current regulatory framework

(and the types of investment services) to be sufficient for current and future innovative concepts? Please elaborate.

We do not consider the current MIFID framework to be sufficient for current or conducive to future innovative concepts. In particular, our experience indicates that the overall investment advice regime and/or the protocol for delivering advice is still quite technical and very rooted/derived from the experience of delivering advice in a face-to-face environment. In addition to our response to Q18 and Q22, we believe that the product governance and distribution provisions of MIFID II/MiFIR should be adapted to better suit digital and online offers of investment services and products.

Specifically, current protocols centre on individual securities and impose many documentation requirements that make it expensive and cumbersome to deliver to clients.

Similar to other market participants, Vanguard is finding it challenging to comply with certain aspects of the product governance rules where products are made available for distribution through an online platform/offering. Some of the key issues are as follows:

- Fragmentation of the supply chain - there is a general fragmentation/break down of the supply chain where online platforms are involved, as these entities often see themselves as not having product governance responsibilities nor even having a traditional client relationship with their users. As a result, the contractual nexus along the distribution chain can become very complicated.

- Ability to obtain information on target market – where products are bought by end users via online platforms, manufacturers can find it difficult to obtain information in respect of sales and target market from platform providers.

- Ability to undertake due diligence on platforms – the fact that platforms often do not see themselves as distributors makes it hard for manufacturers to conduct the required due diligence on the platforms.

- Communication of target market – communication of the target market to investors is also made more difficult in the online context where the European MiFID Template (which provides a minimum set of data to fulfil MiFID II Regulations) is less relevant. This is typically being done via factsheets.

One potential suggestion as to how to adapt the product governance rules is to introduce provisions which account for online offerings – this could help to address some, if not all, of the above-mentioned issues and would likely benefit end investors.

Q28: Are you familiar with the practices of payment for order flow (PFOF)? If yes, please share any information that you consider might be of relevance in the context of this call for evidence. Q29: Have you observed the practice of payment for order flow (PFOF) in your market, either from local and/or from cross border market

participants? How widespread is this practice? Please provide more details on the PFOF structures observed.

No response.

Q30: Do you consider that there are further aspects, in addition to the investor protection concerns outlined in the ESMA statement with regards to PFOF, that the Commission and/or ESMA should consider and address? If so, please explain which ones and if you think that these concerns can be adequately addressed within the current regulatory framework or do you see a need for legislative changes (or other measures) to address them.

No response.

Q31: Have you observed the existence of "zero-commission brokers" in your market? Please also provide, if available, some basic data (e.g., number of firms observed, size of such firms and the growth of their activities).

No response.

Q32: Do you have any information on "zero-commission brokers" business models, e.g., their main sources of revenue and the incidence of PFOF on their revenue? If so, please provide a description.

No response.

Q33: Do you see any specific concern connected to "zero commission brokers", in addition to the investor protection concerns set out in the ESMA statement that the Commission and/or ESMA should consider and address? Please explain and please also share any information that you consider might be of relevance in the context of this call for evidence. Please also explain if you consider that the existing regulatory framework is sufficient to address the concerns listed in the ESMA statement regarding zero-commission brokers or do you believe changes should be introduced in the relevant MiFID II requirements.

No response.

Q34: Online brokers seem to increasingly use gamification techniques when interacting with clients. This phenomenon creates both risks and potential benefits for clients. Have you observed good or bad practices with regards to the use of gamification? Please explain for which of those a change in the regulatory framework can be necessary. Do you think that the Commission and/or ESMA should take any specific action to address this phenomenon?

At Vanguard, we are huge proponents of the benefits of retail investors having access to the capital markets. At the same time, we've always emphasized the value of a low-cost, long-term, diversified investment philosophy (e.g. fund investment).

We were concerned by the phenomenal price appreciation of a handful of stocks (like GameStop), despite no meaningful change to their fundamentals. We note that there is a distinct difference between investing and speculation and experience shows that markets have historically rewarded those who take a long-term view.

Therefore, we believe that there is a role for policymakers and the financial services industry in helping to prevent individual investors make these mistakes. Longer-term, financial education is essential. We need to focus on increasing the level of financial literacy of European citizens and develop the infrastructure to help them become aware of their overall financial health throughout their adult life. To achieve that, we encourage the European Commission to take a coordinating role in ensuring that the Member States adopt a comprehensive framework for financial education. In addition, we know that behavioural nudges work to ensure that citizens stay engaged in their financial planning for the future. Thus, introducing auto-enrolment policies and tools such as pension dashboards and default investment accounts could help bolster the awareness of citizens of their financial situation and thus readiness to invest (please see response to Q6).

In the short- to medium-term, more should be done to provide consumers with a sliding scale of advice and guidance options, from (free) simple financial education through to (higher-cost) traditional face-to-face advice (please see response to Q18 and Q22).

Q35: The increased digitalisation of investment services, also brings the possibility to provide investment services across other Member States with little extra effort. This is evidenced by the rapid expansion of online brokers across Europe. Do you observe issues connected to this increased cross-border provision of services? Please elaborate.

We believe that the increased cross border provision of services is generally beneficial to consumers, on the condition that retail investors’ interests are properly safeguarded. Great cross-border activity will increase access by EU consumers to a wider range of products and services and reduce the costs they incur.

While positive steps have been taken to create a genuine pan-EU market, European policymakers and regulators should further prioritise harmonisation of the EU regulatory environment to further facilitate the development of a true pan-EU market for the provision of retail financial services. Currently, the lack of consistency across EU jurisdictions with regards to the different parts of the investor protection framework and the use of incentives for savings and investments hinders the establishment of a pan-EU long-term investment market.

Role of social media

Q36: Do you observe an increasing reliance of retail clients on information shared on social media (including any information shared by influencers) to base their investment decisions? Please explain and, if possible, provide details and examples. Do those improve or hamper the decision-making process for clients?

Social media has undoubtedly played a key role in the recent events causing the sudden price appreciation of a handful of stocks (like GameStop), despite no meaningful change to their fundamentals.

Nevertheless, individual traders who frequent online message boards appear to have played a meaningful role in the examples from the beginning of last year too. As technology continues to drive down the cost of investing, there's indeed been an increase in trading by individuals. Online forums such as Reddit have allowed these active individual traders to communicate and coordinate their activities.

At Vanguard, we are huge proponents of the benefits of retail investors having access to the capital markets. However, we would like to reiterate our position expressed in the response to Q34 that there is a distinct difference between investing and speculation. The markets have traditionally rewarded investors who take a long-term view, thus market speculation (like in GameStop) is not how we consider retirement savings or the money set aside for a child's education should be invested.

Vanguard uses its communications with investors to encourage them to tune out the noise and stay the course, two time-tested investment philosophies that continue to serve investors well. Turmoil in the markets can provoke strong emotions, tempting investors to make impulsive decisions, so we constantly try to encourage investors to exercise discipline and perspective and stay committed to their long-term investment plans. We consider this to be as important today as it has ever been, given the increasing availability to retail investors of "investment" recommendations and guidance through social media channels.

With that in mind, we consider it to be positive that our experience of the March 2020 turmoil was that 90% of our investors maintained their investment strategy and essentially did nothing. They exercised discipline and stayed true to the "buy and hold" mentality that we encourage. Not only is that good investment behaviour, it also is helpful from a wider financial stability perspective.

Q37: What are, in your opinion, the risks and benefits connected to the use of social media as part of the investment process and are there specific changes that should be introduced in the regulatory framework to address this new trend?

We welcome ESMA's recent Statement on Investment Recommendations on Social Media. At the same time, we echo the industry position that it should be further ensured that all actors are properly regulated and licenced regardless of the context within which they operate and that the same level of investor protection should apply.

We would also like to point out that there are a practical aspects which need to be considered when addressing social media channels used for investment advice and distribution, not least the online versus off-line form of the communication used (e.g. paper-based v. non-paper-based media) and the respective constraints of each platform. For example, we would support the addition of provisions on how to describe risks and rewards in an equally prominent manner in marketing communications in cases when they are distributed via channels which provide only very limited space available to their users to deliver information (e.g. LinkedIn / Instagram / Twitter).

Q38: Are you aware of the practices by which investment firms outsource marketing campaigns to online platform providers/agencies that execute social media marketing for them, and do you know how the quality of such campaign is being safeguarded?

No response.

Q39: Have you observed different characteristics of retail clients, such as risk profiles or trading behaviour, depending on whether the respective client group bases their investment decision on information shared on social media versus a client group that does not base their investment decision on social media information? Please elaborate.

No response.

Q40: Do you have any evidence that the use of social media (including copy/mirror trading) has facilitated the spreading of misleading information about financial products and/or investment strategies? Please elaborate and share data if possible.

No response.

Q41: Have you observed increased retail trading of 'meme stocks', i.e. equities that experience spikes in mentions on social media? Please share any evidence of such trading and, if possible, statistics on outcomes for retail investors trading such instruments.

No response.

Risk warnings

Q42: Do you consider that the current regulatory framework concerning warnings provides adequate protection for retail investors? If not, please explain and please describe which changes to the current regulatory framework you would deem necessary and why.

In the absence of a complete ban on commission-based sales models in the EU, it is even more important that investors have explicit transparency as to the fees being accrued by intermediaries in respect of the distribution of these products as these are ultimately paid for by the end investor and thereby present a risk to the net returns of the end investor. While we would agree that disclosure alone can only have a limited impact on consumers' decision-making, consumer experiments have shown that a number of behaviorally informed 'nudges' can impact investors fund choices and, in some cases, their understanding of charges.

Overall, we believe that it is imperative that costs are given equal prominence to all other aspects in marketing material. Each basis point an investor pays in costs is a basis point less an investor receives in returns. We would thus contend that cost is perhaps the most certain of the outcomes impacting clients' investment success and therefore it is important that costs should be a sharp focus area for investors (on par with past investment performance). We would thus like to see all investment products include a specific warning about the corrosive effect on returns of paying high charges as high charges on products and services affect long-term returns.

In fact, when consumers are made aware of the impact of charges on their net return, many might choose a cheaper product. Thus, we advocate for a mandatory cost warning on all investment documents to help consumers better understand the damage caused by high costs.

Behavioural finance research such as the UK FCA's findings confirms that when non advised investors are indeed made aware of the impact of costs on their net return and are able to compare costs between rival offerings, this significantly increases (by over 10%) the proportion of participants selecting a cheaper fund. It also leads to an overall improvement in awareness and understanding of charges. In fact, the warning message is found to improve decision-making most when the warning reminding investor to check how much they are paying is paired with a review screen, providing a summary of the costs and charges for their chosen fund, as well as a comparator chart, comparing a fund's charges to other in the same asset class. In addition, the warning is proven to be most impactful when prominently positioned (e.g. top of the page) on pages which all investors are required to view. Importantly, the FCA's experiment showed that an increased focus on charges does not seem to reduce the importance that participants place on other fund characteristics (e.g. performance or risk).

2.4.3. Open finance

Q43: Do you believe that consumers would benefit from the development of an 'open finance' approach similarly to what is happening for open banking and the provision of consumer credit, mortgages, etc? Please explain by providing concrete examples and outline especially what you believe are the benefits for retail investors.

Vanguard is generally supportive of all efforts to develop a regulatory environment that is conducive to the development of open finance and technology-enabled advice in the field of retail investments.

Alongside technology-enabled advice and guidance services, we believe that Open Finance has the potential to radically overhaul the ability of European citizens to gain a greater grasp and appreciation of their financial affairs, recognise the costs of their existing financial affairs and compare against alternative providers that potentially may deliver better value for money, and move away from expensive legacy arrangements.

In doing so, Open Finance could be a huge catalyst to creating a successful savings and investing culture in the EU and deliver consumers a better chance of investment success. In particular, we foresee considerable opportunities for Open Finance in respect of the provision of (technology-enabled) investment advice.

In more detail, we believe that Open Finance could transform and expedite the suitability process undertaken by a financial adviser by enabling the adviser to have direct access to significant information about a consumer's financial situation, reducing the time and effort needed by the adviser to determine what is the most suitable advice for the consumer.

In addition, the available data could also lead to a less lengthy and costly Know-Your-Customer and Anti-Money-Laundering processes that accompany this process.

In addition, we welcome the Commission's recent initiative on digital ID and we encourage its further adoption into other processes to reduce much of the laborious and time consuming account opening procedures many investors experience and which constitute a barrier to investing.

Q44: What are, in your opinion, the main risks that might originate from the development of open finance? What do you see as the main risks for retail investors? Please explain and please describe how these risks could be mitigated as part of the development of an open finance framework.

We note the important issues around data privacy and data protection that are paramount and must be considered as part of the debate on Open Finance. Therefore, it is our view that any Open Finance approaches much be based on the client's explicit approval to access and use their data.

Q45: Which client investor data could be shared in the context of the development of an open finance framework for investments (e.g., product information; client's balance information; client's investment history/transaction data; client's appropriateness/suitability profile)?

With a reference to our response to Q44 and Q47, we would consider it beneficial that any data relevant to the Know-Your-Customer and Anti-Money-Laundering processes that accompany the onboarding process, as well as data required for the development of a digital ID, is shared in the context of the open finance framework.

Q46: What are the main barriers and operational challenges for the development of open finance (e.g., unwillingness of firms to share data for commercial reasons; legal barriers; technical/IT complexity; high costs for intermediaries; other)? Please explain.

No response.

Q47: Do you see the need to foster data portability and the development of a portable digital identity? Please outline the main elements that a digital identity framework should be focusing on.

As stated in our response to Q44, we welcomed the European Commission's initiative on digital ID and we encourage its further adoption into other processes.

We believe that the adoption of a digital ID, building on the eIDAS framework, could simplify much of the time-consuming account opening procedures many investors experience and which constitute a barrier to investing for some (potential) retail investors.

Importantly, the digital ID could also be a key enabler for the portability of consumer information. From a consumer perspective, this would allow investors to shop around and switch to more cost-effective service providers if and as needed. From an industry perspective, digital IDs would facilitate cross-border data sharing between distributors and investment funds, thereby reducing costs and overall operational complexity, as well as supporting fund managers in discharging their product governance obligations, notably through more comprehensive target market identification.

Digital IDs could also facilitate the creation of dashboards allowing consumers to visualise their pensions and savings in a single place and thereby allowing citizen to be make better-informed choice for their investment decision.

Q48: Do you consider that regulatory intervention is necessary and useful to help the development of open finance? Please outline any specific amendments to MiFID II or any other relevant legislation.

Yes, we believe that the European Commission has a role to play in enabling the development of open finance. Indeed, open banking has arguably only become reality as a result of the involvement of policymakers and regulators (e.g. as regards the imposition of mandatory common requirements and agreed standards for participant firms).

Q49: What do you consider as the key conditions that would allow open finance to develop in a way that delivers the best outcomes for both financial market participants and customers? Please explain.

Please see response to Q44.