Basic information

2022/0147(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Financial services contracts concluded at a distance Repealing Directive 2002/65 1998/0245(COD) Amending Directive 2011/83 2008/0196(COD) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 4.60.06 Consumers' economic and legal interests	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	KOKALARI Arba (EPP)	08/07/2022
	Shadow rapporteur LEITÃO-MARQUES Maria-Manuel (S&D) YON-COURTIN Stéphanie (Renew) GRUFFAT Claude (Greens /EFA) JURZYCA Eugen (ECR) BASSO Alessandra (ID) KONEČNÁ Kateřina (The Left)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs (Associated committee)	YON-COURTIN Stéphanie (Renew)	21/06/2022
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

European Commission	Commission DG	Commissioner
	Justice and Consumers	REYNDERS Didier

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
11/05/2022	Legislative proposal published	COM(2022)0204	Summary
18/05/2022	Committee referral announced in Parliament, 1st reading		
24/11/2022	Referral to associated committees announced in Parliament		
28/03/2023	Vote in committee, 1st reading		
28/03/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
30/03/2023	Committee report tabled for plenary, 1st reading	A9-0097/2023	Summary
17/04/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
19/04/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
29/06/2023	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE750.091 GEDA/A/(2023)004000	
05/10/2023	Decision by Parliament, 1st reading	T9-0354/2023	Summary
05/10/2023	Results of vote in Parliament		
05/10/2023	Debate in Parliament		
23/10/2023	Act adopted by Council after Parliament's 1st reading		
22/11/2023	Final act signed		
28/11/2023	Final act published in Official Journal		

Technical information

Procedure reference	2022/0147(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2002/65 1998/0245(COD) Amending Directive 2011/83 2008/0196(COD)
Legal basis	Rules of Procedure EP 57_o Treaty on the Functioning of the European Union TFEU 114
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee

Stage reached in procedure	Procedure completed
Committee dossier	IMCO/9/09058

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE738.712	21/11/2022	
Amendments tabled in committee		PE740.643	18/01/2023	
Committee opinion	ECON	PE736.617	25/01/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0097/2023	30/03/2023	Summary
Text agreed during interinstitutional negotiations		PE750.091	21/06/2023	
Text adopted by Parliament, 1st reading/single reading		T9-0354/2023	05/10/2023	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2023)004000	21/06/2023	
Draft final act	00037/2023/LEX	22/11/2023	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2022)0204	11/05/2022	Summary
Document attached to the procedure	SEC(2022)0203	12/05/2022	
Document attached to the procedure	SWD(2022)0141	12/05/2022	
Document attached to the procedure	SWD(2022)0142	12/05/2022	
Commission response to text adopted in plenary	SP(2023)557	19/12/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2022)0204	14/07/2022	
Contribution	PT_PARLIAMENT	COM(2022)0204	21/12/2022	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

EESC	Economic and Social Committee: opinion, report	CES2933/2022	21/09/2022	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	**Role**	**Committee**	**Date**	**Interest representatives**
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur	IMCO	04/05/2023	Finance Watch
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur	IMCO	13/03/2023	Independent Retail Europe (formerly UGAL - Union of Groups of Independent Retailers of Europe)
BASSO Alessandra	Shadow rapporteur	IMCO	09/03/2023	Federation of European Data and Marketing
GRUFFAT Claude	Shadow rapporteur	IMCO	19/12/2022	BEUC
GRUFFAT Claude	Shadow rapporteur	IMCO	19/12/2022	Finance Watch
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur	IMCO	15/12/2022	Fédération bancaire française
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur	IMCO	07/12/2022	Leaseurope ALF
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur	IMCO	07/12/2022	Finance Watch
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur	IMCO	05/12/2022	Bureau Européen des Unions de Consommateurs
KOKALARI Arba	Rapporteur	IMCO	16/11/2022	Bureau Européen des Unions de Consommateurs
KOKALARI Arba	Rapporteur	IMCO	09/11/2022	International Personal Finance plc
KOKALARI Arba	Rapporteur	IMCO	19/10/2022	Finance Sweden
KOKALARI Arba	Rapporteur	IMCO	30/09/2022	Swedish Fintech Association
KOKALARI Arba	Rapporteur	IMCO	30/09/2022	Svensk Försäkring
KOKALARI Arba	Rapporteur	IMCO	28/09/2022	German Insurance Association

Other Members

Transparency		

Name	Date	Interest representatives
YON-COURTIN Stéphanie	19/09/2022	Gesamtverband der Versicherungswirtschaft

Final act	
Directive 2023/2673 OJ L 000 28.11.2023, p. 0000	Summary

Financial services contracts concluded at a distance

2022/0147(COD) - 05/10/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 548 votes to 4, with 14 abstentions, a 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.

The text simplifies existing legislation, increases consumer protection, and creates a level playing field for financial services concluded online, via telephone or through other forms of remote marketing.

The Commission proposal, presented on 11 May 2022, repeals the 2002 directive, and introduces new provisions for financial services contracts concluded at a distance as an additional chapter of the consumer rights directive (CRD) which protect consumers in all kinds of commercial practices. It simplifies the legislative framework and certain articles of the CRD will also apply to financial services sold at a distance.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission proposal as follows:

Consumer information

The amended text improves the rules on information disclosure and aims to **modernise pre-contractual information obligations** and keeps the possibility for member states to impose stricter national rules in this area.

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

- the identity and the main business of the trader and, where applicable, the identity and the main business of the trader on whose behalf he is acting;

- relevant contact details enabling the consumer to address any complaints to the trader;

- a description of the main characteristics of the financial service;

- the total price to be paid by the consumer to the trader for the financial service, including, information on the consequences of late or missed payments;

- practical instructions and procedures for exercising the right of withdrawal;

- the existence of guarantee funds or other compensation arrangements.

In the case of voice telephony communications, the identity of the trader and the commercial purpose of the call initiated by the trader should be made explicitly clear at the beginning of any call with the consumer. When a call is being recorded, or might be recorded, the trader should also notify the consumer that this is the case.

Right of withdrawal

The Directive facilitates the exercise of the right of withdrawal from distance contracts by including, on the service provider's interface, a '**withdrawal function**' which is easily readable and accessible to the consumer.

The withdrawal function must enable the consumer to send an **online withdrawal statement** in which he informs the trader of his decision to withdraw from the contract. This online declaration should enable the consumer to provide or confirm easily the following information: (a) his name; (b) details identifying the contract from which he wishes to withdraw; (c) details of the electronic means by which confirmation of withdrawal will be sent to the consumer.

Once the consumer activates the confirmation function, the trader should send to the consumer an **acknowledgement of receipt** of the withdrawal on a durable medium, including its content and the date and time of its submission, without undue delay. The consumer should be considered to have exercised his or her right of withdrawal within the relevant withdrawal period if he or she submitted the online withdrawal statement before that period expired.

Adequate explanations

Traders are required to provide adequate explanations to the consumer concerning 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. Such explanations should be provided to the consumer free of charge and prior to the conclusion of the contract.

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 fully automated online tools such as chatbots, roboadvice, interactive tools or similar means. 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, at the pre-contractual phase, be able to obtain human intervention on behalf of the trader, free of charge, during business hours of the trader. The consumer should also have the right, in justified cases and without undue burden for the trader, to request **human intervention** after the distance contract has been concluded.

Additional protection regarding online interfaces

Traders must not design, organise or operate their online interfaces in such a way as to **mislead or manipulate the consumers** for whom their service is intended or in such a way as to impair or substantially hinder their ability to make free and informed decisions. In particular, Member States should adopt measures that, in accordance with Union law, address at least one of the following practices by traders:

- giving more prominence to certain choices when asking the consumers who are recipients of their service for a decision;

- repeatedly requesting that consumers who are recipients of the service make a choice where that choice has already been made, especially by presenting pop-ups that interfere with the user experience; or

- making the procedure for terminating a service more difficult than subscribing to it.

Member States may adopt or maintain more stringent provisions regarding the requirements for traders, when the provisions are in conformity with Union law.

By 31 July 2030, the Commission should submit a report on the application of this Directive, including the withdrawal function, to the European Parliament and to the Council. That report should include an evaluation of the functioning of the single market for financial services concluded at a distance in the Union and the impact of this Directive on other relevant Union law

Financial services contracts concluded at a distance

2022/0147(COD) - 11/05/2022 - Legislative proposal

PURPOSE: to promote the provision of financial services within the internal market while ensuring a high level of consumer protection.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2002/65/EC of the European Parliament and of the Council lays down EU-wide rules on the distance marketing of consumer financial services. At the same time, Directive 2011/83/EU of the European Parliament and of the Council establishes, inter alia, rules for distance contracts for the sale of goods and services concluded between a trader and a consumer.

Directive 2002/65/EC has been subject to various reviews. Those reviews have revealed that the progressive introduction of product-specific EU legislation has led to significant overlaps with Directive 2002/65/EC and that digitalisation has exacerbated certain aspects which are not fully addressed by that Directive, in particular how and when information should be provided to the consumer.

It is therefore necessary to **revise the rules applicable to distance contracts for financial services concluded between a trader and a consumer**, while ensuring the application of the ‘safety net’ feature which guarantees consumers a certain level of protection for contracts concluded at a distance, even in the case of financial products which are not yet subject to EU legislation.

CONTENT: the proposal aims to **simplify and modernise** the legislative framework by repealing the existing Directive 2002/65/EC concerning the distance marketing of financial services while including the relevant aspects of consumer rights concerning financial services contracts concluded at a distance within the scope of the horizontally applicable Consumer Rights Directive 2011/83/EU.

The proposal aims to end the general exclusion of financial services from Directive 2011/83/EU by **extending its scope to financial services concluded at a distance**. Specifically, the proposal aims to:

- **ensure full harmonisation of the rules on consumer financial services concluded at a distance**. This means that the rules will be similar for all financial service providers and the same rights will be guaranteed to consumers in all EU Member States;

- **establish rules on what pre-contractual information** should be provided, how and when, making the rules fit for the digital age. In practical terms, the rules are modernised in the sense that some detailed information not mentioned in Directive 2002/65/EC, such as the provision of the e-mail address

by the financial service provider, has been added. The proposal also regulates the way in which information must be provided in relation to electronic communication. It lays down rules on the timing of the provision of information so that consumers have sufficient time to understand the pre-contractual information received and to be able to assimilate it before actually concluding the contract;

- **facilitate the exercise of the right of withdrawal**, where financial services contracts are concluded electronically, by means of a withdrawal button and ensure that consumers who have had less than one day to digest the pre-contractual information receive a reminder about their right of withdrawal after the conclusion of the contract;

- **guarantee online fairness**: the proposal sets out special rules to protect consumers when concluding contracts for financial services by electronic means. First, it establishes rules concerning adequate explanations that take place at a distance, including via online tools (e.g. roboadvice or chat boxes). The rules establish the information requirements that the trader is to provide the consumer with and the possibility for the consumer, if online tools are used, to request human intervention. The proposal prohibits traders from setting up their online interfaces in a way which can distort or impair the consumers' ability to make a free, autonomous and informed decision or choice;

- **strengthen the rules on the enforcement with regard to the provision of financial services**: the proposal extends the rules on enforcement and penalties currently applicable in Directive 2011/83/EU on consumer rights to financial services contracts concluded at a distance, including the amendments introduced by the better enforcement and modernisation Directive (EU) 2019/2161 concerning penalties in the case of cross-border widespread infringements.

According to the Commission, the preferred option would also have a positive effect on the reduction of consumer detriment (at least EUR 170-210 million) and on consumer trust. It would entail some costs for financial service providers (at least around EUR 19 million) and public authorities (at least around EUR 6 million).

Financial services contracts concluded at a distance

2022/0147(COD) - 28/11/2023 - Final act

PURPOSE: make it safer to conclude financial services contracts online or by telephone.

LEGISLATIVE ACT: Directive (EU) 2023/2673 of the European Parliament and of the Council amending Directive 2011/83/EU as regards financial services contracts concluded at a distance and repealing Directive 2002/65/EC.

CONTENT: with the development of IT technologies, an increasing number of financial services such as credit, insurance, investments or pension plans are promoted online, and the contracts for these services are concluded at a distance. The growing number of distance financial services, in particular during the COVID-19 pandemic, required updating the existing EU legislation in this field.

This Directive repeals the 2002 directive and introduces new provisions for financial services contracts concluded at a distance as an additional chapter of the consumer rights directive (CRD) which protect consumers in all kinds of commercial practices. It simplifies the legislative framework and certain articles of the CRD will also apply to financial services sold at a distance.

The Directive therefore strengthens consumer protection and creates a level playing field for financial services concluded online, by telephone or via other forms of distance marketing.

The 'security net' system

The application of Directive 2002/65/EC to consumer financial services that are not regulated by EU sectoral legislation has resulted in the application of a set of harmonised rules for the benefit of consumers and professionals. This so-called 'security net' system helps to ensure a high level of consumer protection, while guaranteeing fair conditions of competition between professionals.

This Directive clarifies the **scope of application and the safety net-feature** in the Directive, in particular for financial services that are excluded from other sectoral legislation or only partially covered by it.

Pre-contractual information

The Directive improves the rules on information disclosure and aims to **modernise pre-contractual information obligations** and keeps the possibility for Member States to impose stricter national rules in this area.

When providing pre-contractual information through electronic means, such information will be presented in a clear and comprehensible manner. In that regard, the information could be highlighted, framed and contextualised effectively within the display screen.

When making use of the technique of layering pursuant to this Directive, the trader will provide, on the first layer of the electronic means, at least, the identity and the main business of the trader, the main characteristics of the financial service, the total price to be paid by the consumer, notice of the possibility that other taxes or costs might exist and the existence or absence of a right of withdrawal. The other remaining pre-contractual information requirements could be displayed in other layers.

Right of withdrawal

The Directive facilitates the exercise of the right of withdrawal from distance contracts by including, on the service provider's interface, a **'withdrawal function'** which is easily readable and accessible to the consumer. The withdrawal function must enable the consumer to send an online withdrawal statement in which he informs the trader of his decision to withdraw from the contract. Once the consumer activates the confirmation function, the

trader should send to the consumer an acknowledgement of receipt of the withdrawal on a durable medium, including its content and the date and time of its submission, without undue delay.

The objective of this withdrawal function is to raise consumers' awareness of their rights of withdrawal and ensure that to withdraw from a contract is not more burdensome than to enter it. The withdrawal function is applied to all contracts concluded at a distance, not only financial services contracts.

Adequate explanations

Traders are required to provide adequate explanations to the consumer concerning 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**. Such explanations should be provided to the consumer free of charge and prior to the conclusion of the contract.

Where the trader uses online tools, such as robo-advice or chatbots, the consumer will have the right to request **human intervention**, in order to better understand the effects of the contract on his or her financial situation.

Additional protection against dark patterns

The new text introduces additional protection for consumers from dark patterns. Member States will have to take measures to limit the use of dark pattern marketing techniques to **influence consumer's choices**.

The Directive adds further provisions from the CRD to financial services contracts concluded at a distance. These include provisions on inertia selling (the sending of unsolicited goods or services to potential customers to make a sale).

ENTRY INTO FORCE: 18.12.2023.

TRANSPOSITION: 19.12.2025.

APPLICATION: from 19.6.2026.

Financial services contracts concluded at a distance

2022/0147(COD) - 30/03/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Arba KOKALARI (EPP, SE) 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.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Enhanced consumer protection

Before the consumer is bound by a distance contract, or any corresponding offer, the trader should provide the information in **good time** before the consumer is bound by any distance contract. Members called for additional consumer protection regarding financial services contracts concluded online. They proposed that Member States should adopt measures requiring that traders, when concluding financial services contracts at a distance, do not design, organise or operate their online interfaces 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. Measures should be put in place to 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 do to 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**.

Online requirements

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

The report stressed that for distance contracts concluded by means of an online interface, the trader should 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 should 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. When using the withdrawal function, the consumer should 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.