

These replies broadly reflect the views of 675 replies received concerning execution only services. All replies have been read and duly noted but are not reproduced for administrative reasons

(87) What is your opinion of the suggested modifications of certain categories of instruments (notably shares, money market instruments, bonds and securitised debt), in the context of so-called "execution only" services? Please explain the reasons for your views.

Strongly disagree.

It is not clear why a simple share should be considered complex or non-complex simply based on which market it is listed on. The modifications would appear to redefine, for instance, all AIM-listed shares as complex. I can see no difference, in general, in complexity in buying a share on AIM to buying on LSE main market. Average risk and volatility may be different across the markets, but when considering individual shares there are high risk shares and low risk shares on both markets, and in both cases the risk of bankruptcy and 100% loss. The investor using an execution-only service must assess the risk for the individual share in both markets. Why is the investor to be trusted to make this assessment for themselves on one market but not another ?

It is not clear if the restrictions on “embedding” derivatives will impact ETFs and managed funds that simply use complex instruments in implementing their trading strategy. If so, it is not clear why this should be regarded as complex. The decision to invest in a managed fund, tracker or ETF should be based on the reputation and performance of the fund provider and fund manager, and the overall fund strategy. This is the same assessment whether or not the fund management uses complex instruments internally.

The stated aim for the complexity definition appears to be ensuring that clients understand the risk of the product, however the proposals appear to extend complexity to situations where what is risked is simple to assess, and indeed is the same as products that would still be non-complex – i.e. what is at risk is the amount invested.

In contrast, when directly trading in a (true) complex financial product, what is at risk may be many times the amount invested, and quite possibly beyond the capabilities of most private investors to calculate.

There should be a simple definition of what is or is not a complex product – is the total amount risked by the client more than the amount invested, or not.

(88) What is your opinion about the exclusion of the provision of "execution-only" services when the ancillary service of granting credits or loans to the client (Annex I, section B (2) of MiFID) is also provided? Please explain the reasons for your views.

Neutral.

On one hand the loan and investment together may be viewed as a leveraged product, meeting the definition of complex above, as the client may lose more than the amount they have to invest.

On the other hand, if the regulation means it becomes simpler for the same client to take out the loan elsewhere and bring cash to the execution-only service provider, then no protection has been achieved. Also, if the practical impact is that clients can still take the same loans but must then also use an advisory service (from the same provider) then the risk is that the client simply loses more than the amount they had to invest (as above), but loses it faster due to the advisory fees.

(89) Do you consider that all or some UCITS could be excluded from the list of non-complex financial instruments? In the case of a partial exclusion of certain UCITS, what criteria could be adopted to identify more complex UCITS within the overall population of UCITS? Please explain the reasons for your views.

The exclusion of all UCITS funds would be unjustified since many of them are made up of non-complex products. Excluding ETFs (many are I believe UCITS) would potentially exclude entire asset classes that private investors have only recently got easy access to through ETFs.

If the aim is to exclude those funds making use of complex instruments internally as more recently allowed under UCITS III, then the distinction could be made on that basis, however I would disagree with this also, per my comments on (87) above.

Further, UCITS as I understand it is a *_regulated_ _retail_ fund*, and as such it is slightly surprising that such funds are being considered in another directive as too complex for the retail investor to buy. If that is the case, then surely the regulatory framework has failed, and such failings should be addressed there, not by excluding all such funds from the private investor.

(90) Do you consider that, in the light of the intrinsic complexity of investment services, the "execution-only" regime should be abolished? Please explain the reasons for your views.

No I do not.

Further, the question is based on a false premise – that investment services are so intrinsically complex that professional advice is always required (at high cost to the investor of course). I have found much greater complexity in purchasing other products that appear to be far less regulated than even the current version of MiFiD provides for – various insurance policies come to mind.

The consultation text also states:

retail clients – who are essentially concerned by the provision of execution only – should always expect a higher standard of service from intermediaries, including on-line brokerage which is the typical channel for this kind of services

I have used both fully advised and execution only investment services over a number of years, and I have seen nothing to indicate that execution only providers are giving a lower standard of service. If anything, the opposite is true. I have found that execution only providers are:

More transparent (up front information on fees and charges)

More available (through 24hr online platforms)

Faster to respond (online quote and execution often within seconds)

There also appears to be better competition between providers (as a result of the above)

Some of my highest performing investments have been execution-only, and some of the worst have been advised, however there is no rule or pattern in this, apart from one very clear difference in all cases. In my experience, fees, charges, commission etc. result in the advised service route costing upwards of 5 times as expensive as execution-only. Such a level of fees makes a substantial impact on investment performance and will be a severe disincentive, if not making private investing entirely uneconomic in some cases.

(87) What is your opinion of the suggested modifications of certain categories of instruments (notably shares, money market instruments, bonds and securitised debt), in the context of so-called "execution only" services? Please explain the reasons for your views.

I am not aware that there is any need to change the existing regime of execution only services. It is clear that some categories of instruments are more suitable for the private investor than others but it is for individuals to decide what advice they need. The market in shares is particularly widespread and advice is widely available. Investors are well advised to seek professional advice but should not be forced to pay for a service they do not need.

(88) What is your opinion about the exclusion of the provision of "execution-only" services when the ancillary service of granting credits or loans to the client (Annex I, section B (2) of MiFID) is also provided? Please explain the reasons for your views.

It appears that the service of granting credits or loans is incompatible with genuine "execution only" and would be reasonably excluded. The use of credit or loans for investment purposes may or may not be sensible but the two services should be clearly separated.

(89) Do you consider that all or some UCITS could be excluded from the list of non-complex financial instruments? In the case of a partial exclusion of certain UCITS, what criteria could be adopted to identify more complex UCITS within the overall population of UCITS? Please explain the reasons for your views.

I can believe that there may be a good case for excluding some UCITS from the list of non-complex financial instruments. The criteria would seem to be that long standing instruments with a wide following and established record would not be excluded.

(90) Do you consider that, in the light of the intrinsic complexity of investment services, the "execution-only" regime should be abolished? Please explain the reasons for your views

I do not consider that straight forward purchase of equities, unit trusts and other routine investments should be made more complicated or expensive than purchase of building

society, high street bank or national savings investment products. The effect of the abolition of execution only services would inevitably reverse the move towards widespread share and unit trust ownership encouraged by company share schemes and other "democratisation" initiatives

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This seems reasonable.

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It should be down to the individual to make his own investment decisions and in so doing place his own capital at risk ; however lending the money first, and then allowing him/ her to invest through your investment process be it 'execution only' basis could tempt people to unwise investment decisions. So if lending money to someone perhaps some responsibility of checking the suitability of their investments should take place. Of course one should probably do this before lending the money in the first place.

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They possibly could be. My feeling is that essentially if you don't understand what you are buying - then you should not buy it! There seems to be an attitude that everything is mis-sold - perhaps it's time that we realised that some things are mis-purchased. Caveat emptor. (that's Latin for Buyer Beware).

(90) Do you consider that, in the light of the intrinsic complexity of investment services, the "execution-only" regime should be abolished? Please explain the reasons for your views.

No. The removal of 'execution-only' would place a requirement on any institution to equip itself with detailed knowledge of the clients circumstances. This has a number of unwelcome repercussions and invasions into the citizens own right to confidentiality. ie just as i wish you to purchase some shares in a company for me ; I would have to advise you of the other shares I currently own ? It seems this would result in all investors having to seek 'investment guidance' before being allowed to deal: expensive, unwieldy and intensive - and also the guidance may well not be up to one's own level of independent research. The removal of 'execution-only' is clearly wrong, limits choice for responsible investors and not in the interests of citizens.

It's my understanding that your have further proposal that any investment advice given should be subject to an annual review for suitability and risk diversification. On the one hand that's fine if advice has been asked for and given ; however if you force people to take advice (as the removal of 'execution-only' would effectively do) and then force them to have reviews there will no doubt be repercussions for 'poor advice' and charges associated with providing

cover for this. This would drive up the cost of investing for all, and effectively force investors to utilise portfolio management services, removing much of the connection between the shareholders and the companies they are supporting.

Surely this undermines people's human rights to choose their own investments and the very fabric of democratic capitalism under which Europe purports to operate?

For if ordinary individuals are not able to own shares in the companies which they use as customers and work in as employees, the role of huge, faceless financial intermediaries and investment institutions will increase to alienate people from participation in the businesses which drive the economy.

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The modifications should not be made. Interfering with the system may concentrate trading on a reduced market, thus distorting it. Businesses whose shares are excluded from the execution-only system may suffer as a result.

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No change is needed. Existing regulations for loans are adequate.

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UCITS should not be excluded from the list of non-complex financial instruments. The system should be left alone. Well-informed investors prefer to make their own choices; they can choose to take advice if they see fit. Depriving people of choice is regressive.

(90) Do you consider that, in the light of the intrinsic complexity of investment services, the "execution-only" regime should be abolished? Please explain the reasons for your views.

I think the regime should be left as it is. I make my own investment decisions and wish to be able to continue to do so. I would strongly object to having to pay for advice that I do not need. I would equally strongly object to having to divulge personal details such as my income to each institution that I deal with. I consider that this would be an intrusion into my private affairs.

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the context of so-called "execution only" services? Please explain the reasons for your views.

A. In certain respects the limiting of these instruments depends on the competence of the individual to understand them and it is entirely understandable that some individuals may not have the capacity nor the discipline to learn sufficiently well about their risk profile. In my opinion it would therefore only be a reasonable course to widen the the definition of complex products rather than banning the practice of execution-only trading.

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A. I am viscerally uncomfortable about the practice of granting credits or loans to an investor to allow themm to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction but I cannot offer any rationale beyond the fact that the firm should not have the possibility to benefit when taking no responsibility for the investment.....don't make it easy.

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A. This is a complex area that may benefit from the exclusion of some UCITS from the list of non-complex financial instruments

(90) Do you consider that, in the light of the intrinsic complexity of investment services, the "execution-only" regime should be abolished? Please explain the reasons for your views.

A. No, however it would not be unreasonable to impose a "competence gateway" through which potential investors would only pass if they had proven their core understanding of all investments as is the case for CODs and other similar devices.

I am not in favour of personal investors being coerced into portfolio management services. This would have the affect of making such services only accessible to the wealthy, and a situation of the 1970s when the do-it-yourself investor was in effect excluded.