



LEGAL ALERT

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Distance marketing of consumer financial services

Directive (EU) 2023/2673 of the European Parliament and of the Council of 22 November 2023

Directive (EU) 2023/2673 of the European Parliament and of the Council of 22 November 2023 (hereinafter "Directive (EU) 2023/2673") amends Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011, on consumer rights (hereinafter "Directive 2011/83/EU") and repeals Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002, concerning the distance marketing of consumer financial services (hereinafter "Directive 2002/65/EC").

Directive (EU) 2023/2673 underlines that, with the progressive introduction of Union sector-specific legislation, Directive 2002/65/EC has been subject to several amendments, which has led to relevant overlaps in legislation.

In addition, digitalization has promoted considerably the evolution and diversification of the financial services offered to consumers, producing significant changes in the marketing of these services, which are not fully addressed by Directive 2002/65/EC.

Therefore, to safeguard and harmonise the protection, legal certainty and transparency to consumers when concluding distance financial services contracts, Directive (EU) 2023/2673 promotes the updating of the regulation on this topic at European level, based on the following principles:

- ✓ Greater consumer protection.
- ✓ Simplifying the exercise of the right of withdrawal from distance contracts.
- ✓ Prohibition of abusive practices.

Key amendments to Directive 2011/83/EU

Directive (EU) 2023/2673 extends the scope of Directive 2011/83/EU to cover financial services contracts concluded at a distance, adding a new chapter to Directive 2011/83/EU (Chapter III - A) exclusively applicable to these contracts.

This chapter includes rules on the right to pre-contractual information and the right of withdrawal, as well as rules guaranteeing online fairness when financial services contracts are concluded at a distance.

For reasons of transparency, Directive (EU) 2023/2673 stipulates that information should be provided before the consumer is bound by a distance contract, or any corresponding offer, in a clear and comprehensible manner and in good time, in order to ensure that the consumer has sufficient time to read and understand the pre-contractual information, to compare offers and to make an informed decision.

Similarly, Directive (EU) 2023/2673 requires Member States to ensure that 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.

These explanations should include the required pre-contractual information, the essential characteristics and the specific effects that the proposed contract may have on the consumer, including, where applicable, the consequences of payment default or late payment by the consumer.

In addition, adequate explanations should be provided to the consumer free of charge and the consumer must have the right to request human intervention when he or she interacts with the trader through fully automated online interfaces, such as chatbots, roboadvice, interactive tools or similar means.

As regards compliance with the information requirements, the burden of proof shall be on the trader.

Directive (EU) 2023/2673 has further simplified the exercise of the right of withdrawal by stipulating that in the case of distance contracts concluded by the means of an online interface, the trader shall ensure that the consumer can also withdraw from the contract by using a withdrawal function.

The withdrawal function shall be prominently displayed on the online interface, easily accessible, legible and remain continuously available throughout the withdrawal period.

In this context, the consumer has a period of 14 calendar days to withdraw from a contract without penalty and without giving any reason.

This period should be extended to 30 calendar days in distance contracts relating to personal pension operations.

Furthermore, if the consumer has not received the pre-contractual information and contractual terms and conditions, the withdrawal period should expire at the latest 12 months and 14 calendar days after the conclusion of the distance contract.

Where the information is provided less than a day before the conclusion of the distance contract for financial services, the trader should remind the consumer, on a durable medium, about the possibility to withdraw from the distance contract for a financial service.

It should also be noted that where the consumer exercises the right of withdrawal, the only payment that can be required is for the service actually provided by the trader in accordance with the distance contract.

Finally, Directive (EU) 2023/2673 establishes that Member States shall ensure that traders do not design, organise or operate their online interfaces in a way that deceives or manipulates consumers who are recipients of their service or otherwise materially distorts or impairs their ability to make free and informed decisions.

Repeal of Directive 2002/65/EC

Directive 2002/65/EC is repealed with effect from 19 June 2026.

Transposition

Member States shall adopt and publish by 19 December 2025 at the latest, the laws, regulations, and administrative provisions necessary to comply with Directive (EU) 2023/2673.

To access the full version of Directive (EU) 2023/2673 of the European Parliament and of the Council of November 22, 2023, click [here](#).

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