

Circular: Guidelines on certain aspects of the MiFID II Suitability requirements

Background

The European Securities and Markets Authority (ESMA) has published its [Final Report on Guidelines on certain aspects of the MiFID II Suitability Requirements](#).

The assessment of suitability is one of the most important requirements for investor protection in the MiFID framework. It applies to the provision of any type of investment advice, whether independent or not, and portfolio management. Investment firms providing investment advice or portfolio management are required, under Article 25(2) of MiFID II and Articles 54 and 55 of the MiFID II Delegated Regulation, to provide suitable personal recommendations to their clients or to make suitable investment decisions on behalf of their clients.

The Guidelines in the [Final Report on Guidelines on certain aspects of the MiFID II Suitability Requirements](#) build on the text of ESMA's 2012 MiFID I guidelines on suitability, which have been largely confirmed and broadened in order to:

- consider technological developments of the advisory market notably the increasing use of automated or semi-automated systems for the provision of investment advice or portfolio management (robo-advice);
- build on NCAs' supervisory experience on the application of suitability requirements (including the 2012 guidelines);
- take into account the outcome of studies in the area of behavioural finance; and
- provide additional details on some aspects that were already covered under the 2012 guidelines.

The Guidelines, by supporting a consistent and harmonised application of the requirements in the area of suitability, will ensure that MiFID II's objectives are achieved.

Sustainable Finance

Following the publication of the original Consultation Paper (CP), the European Commission (EC) published its Action Plan on sustainable finance. In the Action Plan, the EC stated that “[...] firms should ask about their clients' preferences (such as environmental, social and governance factors) and take them into account when assessing the range of financial instruments and insurance products to be recommended, i.e. in the product selection process and suitability assessment.”

ESMA has included, pending changes to the legal framework, good practice guidance for firms addressing this issue. The good practice will contribute to raising firms' and supervisors' attention and awareness of this issue. ESMA will monitor the legislative proposals under the EC action plan and will consider making focused amendments to the guidelines to reflect changes to the MIFID II delegated acts on this topic.

Target Audience

The content of this circular is addressed to Investment Firms and Credit Institutions when providing investment advice and portfolio management.

Impact on the Conduct of Business Rulebook

The Conduct of Business Rulebook will be amended in due course in order to reflect the above referred guidelines.

Contacts

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