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ESMA MiFID II / MiFIR Investor Protection Q&As and Supervisory Briefing on Appropriateness and Execution-Only

[1] ESMA MiFID II / MiFIR Investor Protection Q&As

Background

The European Securities and Markets Authority (ESMA) has added new [Questions and Answers](#) (Q&As) and updates on the implementation of investor protection topics under the Market in Financial Instruments Directive and Regulation (MiFID II/ MiFIR). The purpose of these Q&As is to promote common supervisory approaches and practices in the application of MiFID II and MiFIR. ESMA will continue to develop this Q&A on investor protection topics under MiFID II and MiFIR, both adding questions and answers to the topics already covered and introducing new sections for other MiFID II investor protection areas not yet addressed in this Q&A.

The Q&As provide new answers on:

- Provision of investment services and activities by third-country firms - Reverse solicitation;
- Product governance - Target market of CoCo-bond funds;
- Suitability report - Use of generic statements;
- Information on costs and charges;
- Level of individualisation of ex-ante information;
- Conditions to be met to use costs grids/tables for ex-ante information;
- Ex-ante information for the service of portfolio management;
- Terminology;
- Taxes to be included in the ex-ante and ex-post costs and charges information;
- Other issues – Durable medium; and
- Best Execution - RTS 27 reporting requirements for market makers and other liquidity providers.

ESMA has also updated two Q&As on:

- Suitability report: availability on firm's website; and
- Information on costs and charges - Use of products' costs presented in the PRIIPs KID.

Target Audience

The content of this document is aimed at competent authorities and investment firms by providing clarity on the application of the MiFID II and MiFIR requirements. It should be noted that the content of this document is not exhaustive and it does not constitute new policy.

Next Steps

ESMA will continue to develop this Q&A on investor protection topics under MiFID II in the coming months, both adding questions and answers to the topics already covered and introducing new sections for other MiFID II investor protection areas not yet addressed in this Q&A.

ESMA will periodically review these Q&As on a regular basis to update them where required and to identify if, in a certain area, there is a need to convert some of the material into ESMA Guidelines and recommendations.

[2] MIFID II SUPERVISORY BRIEFING ON APPROPRIATENESS AND EXECUTION-ONLY

Background

The European Securities and Markets Authority (ESMA) has published an updated version of its Supervisory Briefing on MiFID II appropriateness requirements.

This Supervisory Briefing is an updated version of ESMA's 2012 supervisory briefing on the same topic and takes into account the new version of ESMA's guidelines on suitability published on 28 May 2018 with respect to aspects also relevant to the appropriateness rules.

This supervisory briefing covers the following topics:

- Determining situations where the appropriateness assessment is required;
- Obtaining information from clients;
- Assessment of appropriateness;
- Warnings to clients;
- Qualification of firm's staff; and
- Record-keeping.

Target Audience

This Supervisory Briefing is aimed at competent authorities as defined in MiFID II. It also aims to give market participants indications of compliant implementation of the MiFID II appropriateness provisions. The purpose of this supervisory briefing is to promote common supervisory approaches and practices in the application of the MiFID II appropriateness rules.

Contacts

Should you have any queries regarding the above, please do not hesitate to contact: offsiteinv@mfsa.com.mt.