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ESMA Q&A on MiFID II and MiFIR Investor Protection and Intermediaries Topics

Background

The European Securities and Markets Authority (ESMA) has published an updated version of its [Q&A](#) on the implementation of investor protection requirements under the Market in Financial Instruments Directive and Regulation (MiFID II/MiFIR). The Q&A provides new answers on product governance that aim to give guidance on how firms manufacturing financial instruments should ensure that: [i] financial instruments' costs and charges are compatible with the needs, objectives and characteristics of the target market; [ii] costs and charges do not undermine the financial instrument's return expectations; and [iii] the charging structure of the financial instrument is appropriately transparent for the target market, ensuring that it does not disguise charges or is too complex to understand.

Product Governance

The Q&A provides further information on the manner firms manufacturing financial instruments are required to ensure that financial instruments' costs and charges are identified and quantified as part of their product approval process. The updates also clarify the manufacturing investment firm's obligations to ensure that costs and charges do not undermine the financial instrument's return expectations. Moreover, the Q&A provides illustrative examples of methodologies which can be used by firms to ensure compliance with Article 9(12)(b) of MiFID II Delegated Directive.

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 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.

Contacts

Any queries or requests for clarifications on the contents of this Circular should be addressed to the Conduct Supervision on offsiteinv@mfsa.mt.