

8 February 2021

ESMA consults on Appropriateness and Execution-Only Under MiFID II

Background and Scope

The European Securities and Markets Authority (ESMA) has launched a [consultation](#) on guidelines on the application of certain aspects of the appropriateness and execution-only requirements under MiFID II.

This Consultation Paper builds on relevant parts from ESMA's Guidelines on certain aspects of the MiFID II suitability requirements, while adjusting these to the appropriateness and execution-only framework.

These requirements constitute an important element of investor protection in the provision of investment services other than investment advice or portfolio management. Under MiFID II, investment firms, providing non-advised services are required to request information on the knowledge and experience of clients or potential clients to assess whether the investment service or product envisaged is appropriate, and to issue a warning in case the investment service or product is deemed inappropriate. The execution-only framework allows for an exemption to this assessment in certain conditions, including that the firm issues a warning to the client.

This Consultation Paper builds on relevant parts from ESMA's Guidelines on certain aspects of the MiFID II suitability requirements, while adjusting these to the appropriateness and execution-only framework. In addition, it takes into account the insights of supervisory activities conducted by national competent authorities (NCAs) on the application of the appropriateness and execution-only requirements, in particular resulting from the 2019 common supervisory action (CSA) on appropriateness.

Target Audience

This Consultation paper is addressed to investment firms and credit institutions providing investment services and activities, investment firms and credit institutions when selling structured deposits and external Alternative Investment Fund Managers (AIFMs) when providing investment services. This paper is also important for consumer groups, investors and trade associations, because the guidelines seek to implement enhanced provisions to ensure investor protection, with potential impacts for anyone engaged in the dealing with or processing of financial instruments.

Responding to the Consultation Paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by 29 April 2021.

All contributions should be submitted online by opening this [link](#). Kindly also send you contributions to the undermentioned email address.

Next Steps

ESMA invites feedback from interested stakeholders on the proposed guidelines by 29 April 2021 and will consider this feedback with a view to issue final guidelines in Q3 2021.

Contacts

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