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ESMA Guidelines on Certain Aspects of the MiFID II Remuneration Requirements

Background

On 31 March 2022, the European Securities and Markets Authority (ESMA) published the [final report on its Guidelines on certain aspects of the MiFID II Remuneration requirements](#). These requirements relate to the remuneration of staff involved in the provision of investment and ancillary services and activities or selling or advising on structured deposits to clients, which is a crucial element of investor protection.

The purpose of these Guidelines is to enhance clarity and foster convergence in the implementation of certain aspects of the application of MiFID II remuneration requirements set out in Article 27 of the MiFID II Delegated Regulation as well as, the conflicts of interest requirements set out in Articles 16(3) and 23 of MiFID II and Article 34 of the MiFID II Delegated Regulation in the area of remuneration; and the conduct of business rules set out in Article 24(1) and (10) of MiFID II. In addition, these Guidelines clarify the application of governance requirements in the area of remuneration under Article 9(3) of MiFID II.

The new Guidelines build-upon and will replace the existing ESMA guidelines on the same subject-matter, which were issued under MiFID I in October 2013. In addition, the said Guidelines take into account the new requirements under MiFID II, as well as the results of supervisory activities conducted by national competent authorities (NCAs) on the subject-matter.

ESMA had conducted a public consultation on these Guidelines in order to get feedback from interested parties. A feedback statement is included in the final report, summarising the comments received and highlighting the changes and clarifications made to the final guidelines in response to the input received during the consultation.

Target Audience

The content of this document is aimed at investment firms by providing clarity on the application of the MiFID II remuneration requirements, as well as the MiFID II conflicts of interest and conduct of business requirements in the area of remuneration.

Way Forward

The ESMA Guidelines on certain aspects of the MiFID II Remuneration requirements will be translated into the official languages of the EU and will be published on ESMA's website. The said Guidelines will apply six months after the date of the publication on ESMA's website. Moreover, the 2013 Guidelines on remuneration policies and practices issued under MiFID I will cease to apply on the same date.

Amendments will be implemented to the Conduct of Business Rulebook to incorporate the requirements of the updated ESMA Guidelines.

Contact

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