

18 April 2023

## The European Securities and Markets Authority Publishes a Final Report on MiFID II Product Governance Guidelines

### Background

The Product Governance requirements introduced by MiFID II have proved to be one of the most important elements of the MiFID II investor protection framework, aiming at ensuring that firms act in their clients' best interests during all stages of the investment product's life cycle and preventing mis-selling.

Following the outcome of the 2021 Common Supervisory Action (CSA) on Product Governance, coupled with other regulatory and supervisory developments, ESMA issued a public consultation regarding the review of guidelines on MiFID II Product Governance aspect.

### Scope

The aim of the public consultation on these Guidelines was mainly focused at gathering the views of relevant stakeholders.

Following consideration of the feedback received through this consultation, ESMA published its [Final Report](#) on MiFID II Product Governance Guidelines.

By pursuing the objective of ensuring a consistent and harmonised application of the Product Governance requirements, these ESMA guidelines will make sure that the objectives of MiFID II can be efficiently achieved.

### Updates to the Product Governance Guidelines

The main amendments introduced to the guidelines concern:

- the specification of any sustainability-related objectives a product is compatible with;
- the practice of identifying a target market per cluster of products instead of per individual product ("clustering approach");

- the determination of a compatible distribution strategy where a distributor considers that a more complex product can be distributed under non-advised sales;
- the periodic review of products, including the application of the proportionality principle.

## Next Steps

The Guidelines will be translated into the official languages of the EU and published on ESMA's website. The publication of the translations will trigger a two-month period during which national competent authorities must notify ESMA whether they comply or intend to comply with the Guidelines. The Guidelines will apply two months after the date of the publication on ESMA's website in all EU official languages.

## Target Audience

The content of this document is aimed at investment firms and credit institutions performing investment services and activities, especially firms which manufacture financial instruments or structured deposits as well as firms which distribute these financial instruments to clients.

## Contacts

Any queries or requests for clarifications on the contents of this Circular should be addressed to Conduct Supervision on [csuinvestments@mfsa.mt](mailto:csuinvestments@mfsa.mt).