



Aspects of the MiFID II Suitability Requirements

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ESMA	Consultation	13 th July 2017	13 th October 2017

News Item:

The European Securities and Markets Authority (ESMA) has published a [Consultation Paper](#) (CP) on draft guidelines on certain aspects of the suitability requirements under the Markets in Financial Instruments Directive (MiFID II).

- The suitability requirements were introduced under MiFID to enhance investor protection by ensuring that firms which provide investment advice and portfolio management act in the clients’ best interests. Suitability has to be assessed against clients’ knowledge and experience, financial situation and investment objectives. In order to achieve this, investment firms have to obtain the necessary information from clients

While the objectives of the suitability assessment under MiFID I remain unchanged under MiFID II, the obligations have been strengthened and specified further under the new legislative framework by including the following requirements:

- An explicit reference to the fact that the use of electronic systems shall not reduce the responsibility of firms
- Further details on conduct rules for firms providing a periodic assessment of the suitability
- The requirement for firms performing a suitability assessment to assess, taking into account costs and complexity, whether equivalent products can meet client’s needs
- The requirement for firms to analyse the costs and benefits of switching from one investment to another one
- The extension of suitability requirements to structured deposits
- The requirement for firms to provide clients with a suitability report prior to the conclusion of the recommended transaction

The Consultation Paper includes proposals on the draft guidelines which confirm and broaden the existing guidelines, issued in 2012, in order to:

- Consider recent technological developments of the advisory market, including the increasing use of robo-advice, i.e. automated or semi-automated systems for the provision of investment advice or portfolio management
- Give relevance to the results of supervisory activities conducted by national competent authorities (NCAs) on the suitability requirements
- Incorporate some insights of studies in the area of behavioural finance
- Provide additional details on some aspects that were already covered under the ESMA’s 2012 guidelines

The consultation closes on 13th October 2017. ESMA will consider the feedback it receives to the consultation in Q4 2017/Q1 2018 and expects to publish a final report in Q1/Q2 2018.

More information regarding MiFID II coming soon from Compliance Services. Commencing Thursday 20th July 2017, we will be circulating a series of regulatory updates specific to MiFID II. The series of 11 updates will cover the following aspects in more detail.

Client Money and Assets	Appropriateness / Suitability / Information to Clients
Transparency	Inducements / Remuneration – Sales / Conflicts of Interest
Eligible Counterparties	New activities and instruments inc. HFT and Algorithmic Trading
Transaction Reporting	Dealing and Managing
Taping	Product Governance
	Trading Venues

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