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Salvatore Gnoni
ESMA
103 rue de Grenelle
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Submitted online

13 October 2017

Dear Salvatore,

AIMA response to ESMA Consultation Paper
Guidelines on certain aspects of the MiFID II suitability requirements

The Alternative Investment Management Association[1] (**AIMA**) welcomes the opportunity to provide comments to the European Securities and Markets Authority (**ESMA**) on its Consultation Paper (**the CP**)[2] in relation to "Guidelines on certain aspects of the MiFID II suitability requirements". AIMA welcomes ESMA's approach of providing additional guidance to clarify the application of key aspects of MiFID II.

While the Guidelines are primarily targeted to firms providing investment advice or discretionary portfolio management to retail clients, ESMA has also encouraged firms to consider the Guidelines to the extent they are relevant in relation to services provided to professional clients. Many of our members provide discretionary portfolio management services, primarily to institutional/professional clients. The Guidelines will therefore be relevant in the provision of those services and we are interested to ensure our member firms have clarity on the application of the rules to ensure implementation is proportionate and achieves the overarching purpose of the rules.

Overall, we would strongly urge ESMA to clearly identify in the final guidelines those rules relevant solely in relation to retail clients, and those relevant to all clients. Clarity of expectations of the proportionate application of the rules will ensure that resources are focused appropriately to those who will benefit from the investor protection measures and enable firms to streamline processes at the more sophisticated end of the market. Institutional investors, in particular, are likely to have an understanding of the products and their own requirements and objectives.

[1] AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with more than 1,600 corporate members in over 50 countries. AIMA works closely with its members to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes, and sound practice guides. Providing an extensive global network for its members, AIMA's primary membership is drawn from the alternative investment industry whose managers pursue a wide range of sophisticated asset management strategies. AIMA's manager members collectively manage more than $1.5 trillion in assets. AIMA is committed to developing industry skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the industry's first and only specialised educational standard for alternative investment specialists. For further information, please visit AIMA's website, www.aima.org.
[2] https://www.esma.europa.eu/sites/default/files/library/2017-esma35-43-748_-_cp_on_draft_guidelines_on_suitability.pdf.

We do not propose to respond in detail to the questions raised in the CP, however, we want to take the opportunity to raise a specific concern regarding the impacts of General guideline 10 on the business costs and trading costs (delay and opportunity costs) on behalf of institutional client portfolios where there are clear and bespoke investment mandates in place. The reality of portfolio management activity within the institutional space is that clients will have very clear ideas about their risk tolerances, what type of portfolio they want and for which reasons (this could be for hedging purposes, liability matching purposes, pure investment purposes or a variety of other reasons all of which reflect the requirements on a case by case basis). The manager will choose underlying investments in its discretion according to the investment mandate given by the client.

In our view, General guideline 10 appears to be aimed at, and much more relevant to, the switching of a retail client between packaged investment products, where there is a need to address conflicts of interest to avoid 'churning' and ensure 'switches' are made in the best interests of the client. Viewing the re-balancing or adjustment of a client portfolio (potentially on a daily basis) pursuant to an agreed mandate as 'switching' is in our view inaccurate in light of the reality of the arrangements in place, and we cannot see the benefit of a thorough cost/benefit analysis in these circumstances. We believe this level of rigidity would fundamentally undermine the nature of the service being provided to institutional clients. The fact that the investment and risk parameters are clearly documented and agreed in the mandate given by the client obviates the need for the additional measures suggested under General guideline 10.

We strongly urge ESMA to revise the General guideline 10 to appropriately restrict its application to retail clients. And we encourage ESMA, in the final guidance, to clarify how the rules apply when firms are dealing with professional clients.

We hope you find our comments useful and would be more than happy to answer any questions you may have in relation to this letter. Please do not hesitate to contact Adele Rentsch (arentsch@aima.org) or Adam Jacobs-Dean (ajacobs-dean@aima.org) in relation to the issues raised in this letter.

Yours sincerely,

Jiří Król
Deputy Chief Executive Officers
Global Head of Government Affairs
AIMA