FECIF response ESMA - CONSULTATION ON INTEGRATING SUSTAINABILITY RISKS AND FACTORS IN MIFID II

Q1: Do you agree with the suggested approach and the changes to the Article 21 of the MiFID II Delegated Regulation on ‘general organisational requirements’? Please state the reasons for your answer.
Yes, we agree with the suggested approach, i.e. that firms shall take into account ESG considerations for the provision of investment services when complying with general organizational requirements.

Q2: Do you agree with the suggested approach and the changes to the Article 23 of the MiFID II Delegated Regulation on ‘risk management’? Please state the reasons for your answer.
Yes, we agree with the suggested approach, i.e. that investment firms shall take into account ESG factors in the context of their risk management policies and procedures.

Q3: Do you agree with the suggested approach and the new recital on ‘conflicts of interest’? Please state the reasons for your answer.
Yes, we agree with the suggested approach and the new recital, i.e. when they identify conflicts of interest, investment firms should include those that may stem from the distribution of ESG investments. We believe that provisions on conflicts of interest should be as far-reaching as possible, thereby including all the possible sources of conflicts.

Q5: Which existing market standards or “labels” are you intending to take into account or already taking into account for the consideration of ESG factors? Do you see any issues when relying on current market standards or “labels”? Please describe.
One of the main obstacles to the development of ESG investments is the lack of a common definition of what constitutes sustainable investments. EU institutions should thus develop a common specific definition of what constitutes ESG investments, preferences, objectives and risks in order to create an effective level playing field, promote transparency and avoid regulatory arbitrage.

The relevant definition may be based on the definition of sustainable investments under Article 2 (o) of the proposal for Regulation on disclosures relating to sustainable investments and sustainability risks.

Q6: Do you agree with the suggested approach and the proposed amendments to the MiFID II Delegated Directive Articles on ‘product governance’? If not, please explain.
Yes, we agree with the suggested approach and the proposed amendments on product governance with regard to the inclusion of ESG factors in the testing, monitoring and reviewing of financial products by product manufacturers. We also point out that specific attention shall be paid to the possibility that the choice of ESG considerations and objectives may affect the risk profile thereby modifying the attribution to a specific risk category: other factors being equal, the choice of ESG investment policies could in fact change the risk level of the investments with a possible reduction in the degree of risk (in this regard, it will be important to verify the evidence coming from empirical studies of the markets).

**Q10:** What current market standards or “labels” are you intending to take into account or already taking into account for the consideration of ESG factors? Do you see any issues when relying on current market standards or “labels”? Please describe.

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The relevant definition may be based on the definition of sustainable investments under Article 2 (o) of the proposal for Regulation on disclosures relating to sustainable investments and sustainability risks.

**Q11:** Do you agree with the suggested approach and the amendments to paragraph 28 of the suitability guidelines?

Yes, we agree with the suggested approach and amendment. In particular, we agree with par. 11 of the Consultation Paper: “sustainability considerations shall not outweigh the relevance of the other suitability criteria in a way that might not result in the client’s best interests. Therefore, ESG preferences should only be addressed once the suitability has been assessed in accordance with the criteria of knowledge and experience, financial situation and investment objectives. Once the range of suitable products has been identified following this assessment, in a second step the product that best fulfils the client’s ESG preferences should be chosen”.

As explained in our answer to Q6, we point out that specific attention shall be paid to the possibility that the choice of ESG considerations and objectives may affect the risk profile thereby modifying the attribution to a specific risk category.
Additionally, after profiling the client pursuant to MiFID II criteria, the client may express her/his preferences for an ESG investment portfolio. This will represent an additional and optional quality filter in the provision of the advisory service.

Q13: Do you agree with the suggested approach and the amendments to paragraph 70 of the suitability guidelines?
Yes, we agree with the suggested approach and amendment, i.e. firms should adopt robust and objective procedures, methodologies and tools that allow them to appropriately consider the different characteristics of the product (including, where relevant, ESG considerations) and relevant risk factors.

At a more general level, we point out the opportunity to supplement the Guidelines with provisions aimed at making it possible that the outcome of the suitability assessment can enable younger investors to access riskier products when the investment plan is implemented by means of accumulation plans, as an alternative to lump sum investments; the flexibility and modularity of these plans allows for a higher level of risk tolerance, consistent with the life cycle of younger investors.

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About FECIF

The European Federation of Financial Advisers and Financial Intermediaries (FECIF) was chartered in June 1999 for the defence and promotion of the role of financial advisers and intermediaries in Europe.

FECIF is an independent and non-profit-making organisation exclusively at the service of its financial adviser and intermediary members, who are from the 28 European Union member states, plus Switzerland; it is the only European body representing European financial advisers and intermediaries. FECIF is based in Brussels, at the heart of Europe.

The European financial adviser and intermediary community is made up of approximately 500,000 private individuals exercising this profession as a main occupation (representing approximately 26,000 legal entities including 45 networks), about 280,000 are members of national professional associations (51 at today’s count).