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Additional Information

Level 1 Regulation

Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Investor Protection and Intermediaries

Topic

Inducements

Subject Matter

Inducements

Question

When a firm is using a research payment account under Article 13 of the MiFID II Delegate Directive, can the research budget required under Article 13(1)(b)(ii) and 13(2)(a) be set for more than one client's portfolio when determining the specific research charge to a client and establishing the need for third party research?

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Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection, Ch. 7, question 1]

While a research payment account (RPA) can only be funded by a specific research charge to the client, which must be based on a research budget set by the firm, ESMA considers that a budget can be set for a group of client portfolios or accounts where the firm has established a similar need for third party research in respect of the investment services rendered to its clients.

This would allow a firm providing investment services to set a research budget at a desk or investment strategy level, for example, if client portfolios have sufficiently similar mandates and investment objectives such that investment decisions relating to those portfolios are informed by the same research inputs. A firm should be able to clearly evidence and demonstrate its approach to setting and managing a budget for a given group of client accounts and that it is consistent with using the budget in the best interests of its clients, as required by Article 13(6) of the MiFID II Delegated Directive. A firm should also describe its approach in a written research policy provided to its clients under Article 13(8) of the MiFID II Delegated Directive.

A firm is still required to identify a specific research charge for individual clients to fund the RPA, even where a budget is set for several portfolios. A firm will therefore need to have a transparent method for making a fair allocation of costs in such cases. This may involve the firm pro-rating the cost of the research budget across all client accounts benefitting from it based, for example, on the value of each client's portfolio, to establish a specific charge for individual clients.

Firms should not set a budget for a group of client portfolios or accounts that do not share sufficiently similar investment objectives and research needs. For example, if portfolios have material differences in the types of financial instruments and / or geographic regions or market sectors they can invest or are invested in, such that their research needs and the

potential costs of acquiring those inputs are different, they should not be subject to the same research budget. This would not allow the firm to ensure a budget is used in the best interests of clients and may result in an unfair allocation of the costs, or benefits derived from research purchased, between different sets of clients. A firm may also choose to set a firm-level research budget to help it control overall costs, but this does not replace the need to set budgets for discrete groups of client portfolios and accounts as described above.