ESMA_QA_1826

Submission Date
06/06/2017

Status: Answer Published

Additional Information

Level 1 Regulation
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Investor Protection and Intermediaries

Topic
Information to clients on costs and charges

Subject Matter
Information on cost and charges

Question
How should investment firms provide ex-ante disclosure of information on costs and charges to clients when there is no available data on actually incurred costs?

ESMA Answer

06-06-2017

Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection Ch. 9, question 14]

Based on article 50(8) of the MiFID II Delegated Regulation, when calculating costs and charges on an ex-ante basis, an investment firm shall use actually incurred costs as a proxy for the expected costs and charges. There may be circumstances where such data is not (entirely) available, for instance during the first year after MiFID II has become effective, when an investment firm just started business or in the case of new clients. In these cases, the investment firm should make reasonable estimations of the expected costs and charges.

ESMA considers an estimation to be reasonable when it includes all variables that directly impact the costs and charges that are expected to be incurred by the client, using actual data to the extent available and making reasonable assumptions otherwise. Examples of such variables are in the case of executing a transaction:

- the type of financial instrument the client wants to buy or sell;
- the cost of the financial instrument, if any;
- the transaction size;
- the commission that will be paid to the broker for executing the order;
- stamp duty paid by the client

When the investment service provided to the client will involve an ongoing relationship, the ex- ante cost estimation would need to cover a certain period. In this case the investment firm would be required to apply an additional set of forward looking assumptions on the client's investment portfolio and the expected investment service(s). Examples are:

- the duration of the client relationship or period covered by the ex-ante cost estimation;
- the average invested amount;
- financial instruments that will be included in the portfolio;
- characteristics of transactions that will be performed by or on behalf of the client.

In line with recital 78 of the MiFID II Delegated Regulation, investment firms should disclose the costs associated with the products and the service the client intends to subscribe to. In the case of potential clients, adapting the information may only be possible when the

potential client has engaged with the investment firm. Until then, investment firms could disclose generic ex-ante information on costs and charges using other means, such as disclosing costs and charges for several examples of investor types, providing online access to interactive cost calculation tools or providing cost tables that include multiple investment scenarios.

In any case, the firm should provide the ex-ante information in good time and clearly disclose the underlying assumptions as well as the fact that its presented cost figures were calculated on a best effort basis due to the fact that historical data were not available, where relevant.