ESMA_QA_1831

Submission Date
03/10/2017

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
Which specific limitations to the cost transparency regime may professional clients and eligible counterparties agree on?

ESMA Answer

03-10-2017

Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection Ch. 9, question 19]

Article 50(1) of the MiFID II Delegated Regulation allows - in certain situations described in paragraphs 2 and 3 thereof - for a limited application of some of the detailed requirements set out in Article 50. The more limited application which needs to be agreed by the two parties should however never lead to disapplying the obligations imposed on investment firms pursuant to Article 24(4) MiFID II.

ESMA emphasizes that Article 24(4) MiFID II requires that the information provided to clients, amongst others, includes information on all costs and charges, including information relating to both investment and ancillary services, the financial instrument recommended or marketed to the client and any third-party payments. In addition, the information shall be aggregated and where the client so requests, an itemised breakdown shall be provided. The information about costs and charges shall be provided to the client in good time before the investment service is provided and, where applicable, on a regular basis, at least annually.

Recital 74 provides examples of detailed requirements which could be the object of such limited applications under article 50 of the Delegated Regulation. For instance, the investment firm could agree, at the request of the client, to not provide the illustration showing the cumulative effect of costs on return, not provide an indication of the currency involved and not provide the applicable conversion rates and costs where any part of the total costs and charges is expressed in foreign currency.