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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
Information to clients on costs and charges

Subject Matter
Information on cost and charges

Question
In what circumstances and under which conditions could a firm meet its obligation for ex-ante disclosure by informing its clients of the relevant costs and charges just once, or on a regular basis, but not before each transaction?

ESMA Answer

28-03-2019

Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection Ch. 9, question 23]

Where there are no product costs for the relevant financial instrument (management, structuring or distribution fees which are neither included in the price or in addition to the price of the financial instrument) or in the residual instances where the assessment of product costs is not required (in accordance with Article 50(6) of the MiFID II Delegated Regulation), firms may meet their ex-ante costs and charges disclosure obligation by providing to their clients a grid or table displaying the relevant costs and charges specific to i) the investment or ancillary service and ii) the financial instrument category offered to or demanded by the client.

However, such grids or tables should comply in full with the MIFID II costs and charges requirements. Consequently, the amounts and percentages disclosed in such grids or tables for the relevant investment service(s) and category(ies) of financial instruments should be the same as those that would have been disclosed had the firm informed the client of the relevant costs and charges before each transaction and in a fully individualized, transaction-based manner (as per Q&A22). This means that the categories of financial instruments used as a basis to calculate and disclose service costs through such grids or tables have to be granular enough for this purpose. This also means that the information provided should be clear and understandable by the client to which it is provided, and such grids or tables should not be brochures in which the firm sets out a long list of tariffs that may or may not apply to a broad range of clients, when specific conditions apply to each.

However, as per Recital 78 of the MIFID II Delegated Regulation, the firm may base the costs and charges disclosed as a cash amount on an assumed investment amount. Nevertheless, the costs and charges disclosed must reflect the costs the client would actually incur on the basis of the assumed investment amount (Recital 78),

As per Article 50(2) of the MiFID II Delegated Regulation, the costs and charges shall also be disclosed as a percentage.

In addition, the information provided in such grids or tables must be updated every time any element changes so that the information provided to the client is, at all times, the same as the information that would have been provided to the client had the firm made such disclosure before each transaction and in a fully individualized, transaction-based manner.

The firm should provide such grids or tables in good time before the first investment service is provided to a new client and at any time they are updated. In addition, they should remain easily available at all times to clients.