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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
Is it necessary to provide ex-ante information about costs and charges in case of clients' sell orders?

ESMA Answer

29-05-2019

Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection Ch. 9, question 27]

Yes, Article 24(4)(c) of MiFID II and Article 46(2) of the MiFID II Delegated Regulation require investment firms to provide to clients or potential clients, in good time before the provision of investment services or ancillary services, the information about all costs and associated charges. When an investment service is provided in relation to the sale of a financial instrument by the client (e.g., execution of orders on behalf of clients, RTO and investment advice), the obligation to provide cost information applies.

Based on Article 50(6) of the MiFID II Delegated Regulation, when an investment firm does not recommend or market a financial instrument or when it is not obliged to provide the client with a KID/KIID in accordance with relevant Union legislation, the investment firm should only inform the client about the costs of the investment service or ancillary service provided by the firm. When an instrument is sold by the client, the firm neither recommends35 nor markets that instrument nor is it obliged to provide the client with a KID/KIID. This means that Article 50(6) of the MiFID II Delegated Regulation applies to this situation and investment firms only need to inform clients about the costs of the investment service(s) and/or ancillary service(s) when selling a financial instrument36.

Based on Article 50(10) of the MiFID II Delegated Regulation, investment firms shall provide their clients with an illustration showing the cumulative effect of costs on return when providing investment services. The aim is to give clients an overview about the impacts of costs on return of an investment so as to be able to assess and compare the impact of costs during the holding period of the respective financial instrument. Therefore, while such illustration has to be provided at the time of the purchase of the financial instrument, in case of clients' sell orders, it would not provide any further benefit for clients, since there is no further return to be expected from that instrument. Thus, in ESMA's view, Article 50(10) of the MiFID II Delegated Regulation should not be applicable in case of ex-ante cost disclosures

relating to clients’ sell orders