ESMA_QA_1841

Submission Date
29/05/2023

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 to disclose cost information (in good time) to a client who places an order via telephone?

ESMA Answer

29-05-2019

Original language

[ESMA35-43-349 MiFID II Q&As on Investor protection Ch. 9, question 28]

According to MiFID II (Articles 24(4) and 25(6)) and the MiFID II Delegated Regulation (Article 46(2) and (3) and Article 50), firms must provide ex-ante information about costs and charges in good time before the provision of investment services or ancillary services to clients or potential clients and on a durable medium (or by means of a website (where it does not constitute a durable medium) provided that the conditions specified in Article 3(2) are satisfied). Such requirements are technology neutral.

In practice, this raises issues in some situations, for example when a client who neither has an email address nor an internet access wants to place an order via telephone. This may also be the case where a client who has an email address or an internet access nevertheless insists on placing an order via telephone without delaying the transaction to consult costs and charges information provided on a durable medium. Indeed, for transactions where time is of the essence, it may not be in the best interest of the client to delay the transaction so that the client can consult the costs and charges information provided by the firm on a durable medium.

Where an investment service concerning a financial instrument with no “product costs” is to be provided or in the residual instances where the firm is not required to disclose “product costs”, the ex-ante information about costs and charges may be provided to the client in the form of a costs grid/table – e.g. at the time of the onboarding (please see Q&A 23).

Where a firm does not fulfil the conditions to take the approach described in Q&A 23, before the provision of each investment service or ancillary service, the firm may offer to the client to either:

- delay the transaction in order to provide the ex-ante information about costs and charges in a durable medium prior to the provision of the service; or

- provide the ex-ante costs information over the phone prior to the provision of the service (thereby fulfilling the requirement that the information must be provided in good time) and, simultaneously, to provide that same information in a durable medium (or through a website in accordance with Article 3(2) of the MiFID II Delegated Regulation).