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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

Level 2 Regulation

Regulation 2017/565 - MiFID II Delegated Regulation

Topic

Information to clients on costs and charges

Historic Question Reference

The second paragraph of this Q&A includes a reference to the Q&A 9.13 of the ESMA Q&As on MiFID II and MiFIR Investor protection and intermediary topics (Ref: ESMA35-43-349) which can also be found in the ESMA Q&A tool as Q&A 1825.

Additional Legal Reference

Art. 24(4) of MiFID II, Article 1(4)(a) of Directive 2021/338/EU, Art. 50(2) and (9) of the MiFID II Delegated Regulation, Article 59(4) MiFID II Delegated Regulation

Subject Matter

Disclosure of costs and charges paid in or represented in an amount of foreign currency

Question

How should investment firms indicate the parts of the total costs and charges paid in or represented in an amount of foreign currency in their ex-ante and ex-post costs and charges disclosure?

ESMA Answer

13-12-2023

Original language

Article 50(3) MiFID II Delegated Regulation stipulates inter alia that where any part of the total costs and charges is to be paid in or represents an amount of foreign currency, investment firms must provide an indication of the currency involved and the applicable currency conversion rates and costs. However, Article 50(3) does not specify how firms should disclose such costs, neither for ex-ante nor for ex-post disclosures.

Firms are required to provide aggregated ex-ante information on all costs and charges.^[1] This includes costs to be paid in or representing an amount of foreign currency^[2] and costs of currency conversion, where applicable. Firms should include these costs and charges in the ex-ante costs and charges disclosure in accordance with Q&A 9.13.^[3] Additionally, in accordance with Article 50(3) MiFID II Delegated Regulation, firms should indicate the currencies involved, the applicable currency conversion rates and currency conversion costs, irrespective of whether the client has requested an itemised breakdown.

For the ex-post disclosure of costs and charges, firms are required to provide to clients' aggregated information at least on an annual basis about all costs and charges related to both the financial instrument(s) and investment and ancillary service(s).^[4] Thus, the costs

paid in or representing an amount of foreign currencies, and the currency conversion costs incurred, shall be included by firms in the aggregated amounts of their ex-post cost and charges disclosure. In contrast to the ex-ante information, in ESMA's view, in the ex-post cost disclosure, firms would neither be expected to indicate the foreign currencies involved, nor to specify the applied currency conversion rates and costs. Only if clients request an itemised breakdown, firms should disclose the relevant foreign currencies, conversion rates and related costs. ESMA notes that further information for each individual transaction is required by Article 59(4) MiFID II Delegated Regulation. This includes information on foreign currencies involved and the applicable currency conversion rates.

[1] According to Article 24(4) of MiFID II and Article 50(2) of the MiFID II Delegated Regulation.

[2] For the purpose of this Q&A, the notion of “foreign currency” depends on the currency of the account and/or the reference currency of the costs and charges disclosure.

[3] Also according to Article 1(4)(a) of Directive 2021/338/EU relating to the disclosure of ex-ante cost information where the agreement to buy or sell a financial instrument is concluded using a means of distance communication.

[4] According to Article 50(9) of the MiFID II Delegated Regulation.