ESMA_QA_2790

Submission Date
26/02/2026

Status: Question Rejected

Additional Information

Level 1 Regulation
Directive 2014/65/EU - Markets in Financial Instruments Directive (MiFID II)

Level 2 Regulation
Regulation 2017/565 - MiFID II Delegated Regulation

Level 3 Regulation
ESMA/2015/1886 - Guidelines - Assessment of knowledge and competence (MiFID)

Topic
Suitability

Historic Question Reference
follow-up to ESMA email ref. 26-0343

Additional Legal Reference
ESMA Guidelines ESMA/2015/1886 (rev.), paras. 4(j), 19, 20(c)-(g); MiFID II (Directive 2014/65/EU), Art. 16(2) and 16(6), Art. 25(1), Art. 25(2), 25(6) and 25(9); Commission Delegated Regulation (EU) 2017/565, Art. 54 and Art. 72.

Subject Matter

“Under supervision” – responsibility, role awareness, real-time supervision, sign-off / “Under supervision” in investment advice: responsibility, role assignment and supervisory sign-off

Question

I would like to request a general clarification on the interpretation of the ESMA Guidelines ESMA/2015/1886 (rev.) regarding “under supervision” in the context of investment advice, in particular paragraphs 4(j), 19 and 20(d)–(g).

In practice, investment firms use supervision/tandem models in which a supervised staff member communicates the personal recommendation to the client, while a qualified/experienced person performs supervision and carries out documentation/approval steps.

Against this background, I kindly request clarification on the following points:

1. Real-time supervision vs. ex post review
Do the Guidelines typically require that, for “under supervision”, the supervisor is able to intervene in real time (e.g. by attending, listening-in/reading along, and having an immediate stop-go capability), or can an exclusively ex post review/approval be sufficient?

2. “Under the responsibility of” / “same responsibility”
How should the requirement be understood that the activity is performed “under the responsibility of” a qualified/experienced person (para. 4(j)) and that the supervisor assumes “the same responsibility” (para. 20(g))?
Which organisational minimum features are typically expected where the supervised staff member communicates the personal recommendation to the client?

3. Explicit assignment and awareness of the supervisory role
Does “under supervision” require that the supervisory role is explicitly assigned and that both the supervised staff member and the supervisor are aware of their respective role, responsibilities and limits?

4. Conscious assumption of responsibility / sign-off
Is the signing of the suitability statement by the supervisor mentioned in para. 20(g) to be understood as a standard expectation (or, in digital processes, a functional equivalent such as a documented review/approval/sign-off)?
Is the mere presence of a qualified person without a conscious assumption of responsibility sufficient?