

Public Statement

ESMA presents the results of the Common Supervisory Action on MiFID II sustainability aspects

Background

In October 2023 ESMA announced¹ the launch of a Common Supervisory Action (CSA) with national competent authorities (NCAs) on the integration of sustainability in firms' suitability assessment and product governance processes and procedures. The exercise took place over the course of 2024 and 2025.

The goal of the CSA was to assess the progress made by intermediaries in the application of the key sustainability requirements, which entered into application in 2022 following the amendments to the MiFID II Delegated Acts. The CSA also took into account the two related sets of [guidelines on suitability](#) and [product governance](#).

In its public announcement, ESMA noted that the CSA would cover the following aspects:

- How firms collect information on their clients' "sustainability preferences";
- Which arrangements firms have put in place to understand and correctly categorise investment products with sustainability factors for the purpose of the suitability assessment;
- How firms ensure the suitability of an investment with respect to sustainability (including the use of a "portfolio approach");
- How firms specify any sustainability-related objectives a product is compatible with as part of the target market assessment of the investment product.

ESMA also underlined that the initiative, together with the exchange of practices among NCAs, would support a more consistent application of EU rules and strengthen investor protection. The CSA forms part of ESMA's broader mandate to foster a common supervisory culture and to promote sound, efficient and consistent supervision across the EU.

ESMA reaffirms the high importance it attaches to sustainable finance and to the effective integration of sustainability considerations in the provision of investment services. At the same time, ESMA recognises the complexity of the current legal framework and the resulting

¹ <https://www.esma.europa.eu/press-news/esma-news/esma-launch-common-supervisory-action-mifid-ii-sustainability-requirements>

challenges for firms and clients, as also emerged from the recent Call for Evidence on the retail investor journey². In the context of the ongoing legislative developments under the Retail Investment Strategy and the review of the SFDR, ESMA considers it essential to ensure that sustainability-related requirements remain effective and proportionate, promote simplicity for clients, and support firms in delivering high-quality and accessible investment services.

This Statement summarises the results of the CSA, it highlights the key themes emerged from this work and, in this context, it also provides some high level interim supervisory expectations on a few key areas to foster consistent implementation while reducing burden during the current transition period.

ESMA invites NCAs to adopt a proportionate supervisory approach, encouraging dialogue with firms to address identified issues during this period of transition rather than prioritising enforcement actions, without prejudice to cases involving clear breaches or mis-selling. Building on the insights gained from the exercise, ESMA will further reflect on the results in the context of any future updates of the MiFID II Delegated Acts on sustainability and the related updates of the ESMA Guidelines on suitability and product governance, with a view to simplifying the framework where appropriate and supporting a more consistent and effective application of the relevant requirements.

Overview of the execution of the exercise by NCAs

Overall, 29 EU and EEA NCAs participated in the CSA and shared information throughout the exercise. A total of 245 firms were included in the CSA sample, 153 of which credit institutions (CIs), and 89 investment firms (IFs). NCAs applied different criteria to select a representative sample for their markets. They had flexibility to determine the size and composition of this sample, provided it was sufficiently large to offer a meaningful picture of how firms have integrated the MiFID II sustainability-related requirements.

NCAs adopted supervisory approaches consistent with their established supervisory practice, making use of both desk-based reviews and on-site work. Many authorities complemented these methods with virtual tools, such as video and audio conferencing, enabling effective remote interactions. While some NCAs relied primarily on desk-based analysis or exclusively on on-site inspections, others used a combination of both approaches.

Main findings

Overall, the assessment of the national reports indicates that firms have continued to make progress in integrating the MiFID II sustainability requirements into their suitability and product governance processes. At the same time, the CSA confirms that practices remain uneven across firms and jurisdictions, and that further improvements are needed in several areas.

² Ref: ESMA35-335435667-6289.

Sustainability requirements within the MiFID suitability framework

Information to clients about the purpose of the suitability assessment and its scope

Most firms have implemented at least some measures to help clients understand the new terms and concepts related to sustainability preferences and the choices to be made in this context. However, NCAs assessment show that this was carried out with varying degrees of success across jurisdictions.

Many firms reported challenges in explaining the regulatory definition of ‘sustainability preferences’, which is based on concepts such as taxonomy-alignment, sustainable investments under SFDR and the consideration of PAIs, in a way that clients can easily understand. Some firms addressed this by avoiding technical terminology altogether, while others combined the legal terms with additional explanations to help clients navigate the new concepts.

Firms employed a range of educational tools to help clients understand the new definitions and concepts such as brochures and leaflets, with the questionnaire being most popular means of educating clients used by firms, which often featured interactive elements like clickable icons, hyperlinks, or pop-up boxes to provide additional information on specific aspects.

Arrangements necessary to understand clients

Overall, firms have taken concrete steps to incorporate the new requirements into their suitability framework. These practices involve adjustments to internal policies, processes, procedures, and the development of tools aimed at ensuring that sustainability preferences are appropriately captured and reflected in the advisory and portfolio management processes.

The assessment indicates a noticeable move towards more detailed and specific questionnaires compared with the early implementation phase of the legal requirements. Nevertheless, the degree of granularity differs significantly across firms and jurisdictions. Some shortcomings were observed, such as instances where firms collect clients’ preferences only for those product categories included in their own offering, largely reflecting the limited availability of suitable products.

When firms are collecting clients’ preferences on standardised minimum proportions, only a few firms provide options that extend up to 100%. For taxonomy aligned products, the ranges offered tend to be low and frequently remain below 10%. For products that meet the definition of sustainable investments under SFDR, ranges begin at 5-10%, reaching higher levels such as 50-75% or above for some firms. Firms indicated that these lower minimum ranges are designed to correspond to the sustainable products currently available in their offering.

When collecting clients’ preferences regarding the consideration of Principal Adverse Impacts (PAIs), firms generally use qualitative approaches, often grouping impacts into broader categories such as environmental, social or governance factors or referring to the SFDR

families of PAIs. Only a few firms collect more detailed preferences relating to specific PAI indicators.

Moreover, deficiencies are identified in several jurisdictions, where firms lack clear internal procedures for handling clients who did not express sustainability preferences. In particular, some firms are found to not consider these clients as “sustainability neutral” as prescribed by the ESMA guidelines but to be offered only investment products without sustainability-related features. The assessment also revealed that, in some jurisdictions, certain firms follow a practice whereby clients expressing a general interest in sustainability, without specifying detailed preferences, are considered as not having any sustainability preference.

Deficiencies are also observed with respect to the neutrality of the client engagement process. The exercise revealed for some firms the absence of formal policies and procedures in place to ensure a neutral client engagement process. In this respect, some firms are found to make use of disclaimers within their questionnaires and client information documents, which may influence clients’ choices.

Finally, the exercise shows that firms take different approaches when clients express detailed preferences across more than one of the three product categories set out in the definition of sustainability preferences. Some firms apply these preferences alternatively, while others follow a cumulative approach. The CSA indicates that most firms do not systematically inform clients of the method applied. ESMA notes, that as set out in its 2023 Call for Evidence³, in order to provide information that is fair, clear and not misleading, and to ensure that any recommendations remain suitable, clients would have to be clearly informed when their preferences will be treated as alternative rather than cumulative.

Firms are therefore encouraged to further reinforce over time their processes to ensure that clients’ sustainability preferences are collected in a clear, neutral and sufficiently detailed manner. In doing so, firms should ensure that questionnaires remain usable and proportionate, avoiding unnecessary complexity or excessive technical terminology. This includes clearly explaining the approach applied when multiple preferences are selected, improving the questionnaire where needed, and adopting consistent procedures for clients who do not express sustainability preferences or express general interest in sustainability without specifying detailed preferences.

Finally, ESMA expects firms to apply a proportionate approach to updating clients’ sustainability preferences. Firms should avoid re-collecting preferences where recent and relevant information is already available, unless there is a material reason to believe the client’s circumstances or preferences have changed.

Arrangements necessary to understand investment products

³ Ref: ESMA35-43-3599.

Firms have adopted policies and procedures to map the ESG characteristics of financial instruments, although the level of implementation varies across firms, with some still at an early stage of development. In general, firms use grouping or ranking mechanisms based on the three categories included in the definition of sustainability preferences. However, in some cases firms consider only some of these aspects (for example relying solely on SFDR classifications or on products' PAIs) often due to limited data availability, inconsistent manufacturer disclosures or technical uncertainties that affect the precision and reliability of product categorisation and the subsequent matching with clients' preferences.

Firms are encouraged to continue strengthening the consistency of their product-categorisation processes. As the availability and quality of ESG data continue to evolve, ESMA invites firms to regularly review and update their methodologies to support a reliable and effective matching of products to clients' sustainability preferences. Pending the outcome of the broader SFDR and RIS reforms, ESMA considers that firms may apply proportionate categorisation approaches that reflect available data, provided these are consistent, well-documented and sufficient to support a MiFID-compliant suitability assessment. Firms are not expected to apply undue granularity where data limitations make such granularity unreliable.

For products with sustainability features that fall outside the scope of the SFDR, NCAs reported that firms use a range of approaches to assess and categorise their ESG characteristics. These practices vary widely in terms of data sources, methodologies and criteria applied. Given the diversity of market practices and the limited availability of consistent data for these instruments, the current framework provides limited scope for convergence in approaches, suggesting that further legislative work is needed in this area.

Arrangements necessary to ensure the suitability of an investment

Some limitations were observed in the arrangements and procedures firms have put in place to integrate clients' sustainability preferences into the suitability process. Difficulties were reported, for example, where firms are unable to match clients' preferences due to a limited product offer for certain sustainability categories. In addition, limited granularity in questionnaires or the use of low minimum proportion thresholds, as noted above, also affects firms' ability to consider and incorporate clients' preferences in the suitability assessment.

Firms often make use of the portfolio approach, applying clients' sustainability preferences on average at the level of the portfolio as a whole, or at the level of the part or percentage of the portfolio that the client wishes to invest in products with sustainability features. The first approach is the most common, as only a limited number of firms collect clients' preferences regarding the specific part or percentage of the portfolio that should be invested in sustainable products.

The CSA shows that firms apply a range of approaches to implementing the portfolio approach, reflecting differences in business models, product offerings and operational frameworks. While

these variations are expected, the exercise also highlights the importance of ensuring that the chosen approach is clearly articulated within firms' internal arrangements, given its relevance for the consistent application of clients' sustainability preferences.

Adaptation of clients' sustainability preferences

Generally, firms have implemented processes and procedures to address situations where they are unable to recommend a product that meets a client's initial sustainability preferences. Most firms have introduced automatic controls that trigger when, based on the preferences expressed, no suitable product can be recommended. In these cases, clients are typically given the possibility to adapt their preferences at the time of the specific recommendation or, for portfolio management services, when entering into a portfolio management agreement.

Approaches to inform clients about this possibility vary across firms. In line with the ESMA Guidelines, firms tend to inform clients of the option to adapt their sustainability preferences only once it becomes clear that the initial preferences cannot be met. However, in some instances it was reported of firms recommending a product that does not meet the client's initial sustainability preferences before the client has adapted them, merely informing the client that the proposed transaction deviates from their sustainability profile and that suitable products are not available. Other cases were reported where clients are informed about the lack of availability of suitable products already at the stage of completing the questionnaire.

The CSA also indicates that, in most cases, the adaptation of preferences applies only to the specific investment advice in question, as required under the ESMA Guidelines. Nonetheless, some deficiencies were observed, such as cases where firms apply the adaptation to the client's overall profile, requiring the client to restart the advisory process and complete a new questionnaire, without clearly informing the client that the change would affect all future recommendations.

ESMA acknowledges that in certain cases firms may face situations where the client's initial sustainability preferences cannot be met due to limited product availability or insufficient granularity of existing product disclosures. In such circumstances, firms could proactively support clients by presenting products that are *closest to* the preferences expressed, ensuring that the advisory process remains clear, fair and not misleading. Any recommendation must continue to comply with MiFID II, including the requirement that clients be given the opportunity to adapt their preferences before a recommendation is made. ESMA considers that transparent communication on the degree of proximity between available products and the client's initial expectations can facilitate informed decision-making and contribute to a smoother advice process, pending forthcoming legislative clarifications.

Record keeping

With regard to the recording of clients' sustainability preferences, the matching of those preferences with suitable products, and the adaptation process, the assessment shows that

not all firms have implemented sufficient measures to ensure that records are complete and appropriately detailed. This is particularly evident in relation to the recording of preference adaptations and the rationale behind them, where in some cases only the final preferences expressed by the client are documented, without retaining information on the steps or explanations leading to those changes.

Accurate and comprehensive record keeping is essential to support effective supervision and to safeguard investor protection. Firms are therefore encouraged to ensure that the documentation related to clients' sustainability preferences, the matching process and any adaptations made is sufficiently complete, clear and traceable.

Sustainability requirements within the MiFID product governance framework

Target market assessment for products with sustainability-related objectives

The review of firms' target market assessments shows that most firms have developed approaches to specify the sustainability-related objectives their products are designed to meet. In general, firms base these assessments on the regulatory definition of sustainability preferences introduced under the MiFID II Delegated Regulation. However, the level of detail applied varies considerably. Some firms define these objectives with insufficient granularity to allow an effective matching of products to clients' preferences, while others have not yet fully developed processes to identify sustainability-related objectives as part of the target market assessment.

Firms should continue refining the way they define sustainability-related product objectives over time to enable a meaningful and accurate match with clients' sustainability preferences.

Assessment of the 'negative' target market for products that do not consider sustainability factors

The results of the CSA reveal that only few firms are considering the sustainability-related objectives in the negative target market assessment for products that do not consider sustainability factors, as foreseen in ESMA_QA_2129.

Firms are encouraged to ensure that, where relevant, the negative sustainability-related target market is clearly articulated so that the distribution strategy remains aligned with the objectives and needs of clients.

Conclusions and next steps

ESMA reaffirms the importance it attaches to sustainability and encourages firms to continue their implementation of the MiFID II sustainability requirements. However, the CSA has been conducted at a time when the wider sustainable finance framework is undergoing significant revision. The review of the SFDR is expected to lead to a clearer and more coherent framework for sustainability-related product disclosures, which will in turn require future updates to the

MiFID II sustainability-preference requirements and contribute to simpler and more usable information for investors while reducing unnecessary burden for firms. As mentioned above, in view of these developments, and reflecting ESMA's strategic priority of promoting simplification and reducing undue burden of firms and clients, ESMA invites NCAs to adopt a proportionate supervisory approach, encouraging dialogue with firms to address identified issues during this period of transition rather than prioritising enforcement actions, without prejudice to cases involving clear breaches or mis-selling.