

TO:

**ESMA - European Securities and
Markets Authority**
103, rue de Grenelle
75007 Paris

Ref: ESMA/2011/445

Brussels, 24th February 2012

FECIF COMMENTS ON

“Guidelines on certain aspects of the MiFID suitability requirements” Consultation Paper

FECIF represents about 170,000 individual practitioners (agents, brokers, consultants, etc.) through 23 trade bodies, 36 corporate entities (networks – large or small, wholesale & retail, local & cross border) and 4 financial institutions (two life offices, one bank & one fund manager).

FECIF is committed to supporting EU politics to promote the single market in financial services. It advocates free and fair competition within the EU markets and support its members’ efforts to increase efficiency.

Fecif is pleased to have the opportunity to take part in the public consultation on certain aspects of the MiFID suitability requirements and to offer its opinion.

III.I. Information to clients about the suitability assessment

Q1: Do you agree that information provided by investment firms about the services they offer should include information about the reason for assessing suitability?

We agree. It is crucial that the client understands that the information provided to the investment firm on its investment objectives, its financial situation and on its knowledge and experience is absolutely indispensable, so that the investment firm may actually provide an effective advice service. As for the relationship between investor and intermediary, simplicity

and clarity are essential, so that both can fully understand the service provided. In order to calm the reaction of some clients about intrusion in their private life, etc. emphasis will have to be given on the guarantee provided by the EU legislative framework about data protection, confidentiality, and assurance that information provided cannot be used by the tax authority or in a court of law.

II. Arrangements necessary to understand clients and investments

Q2: Do you agree that investment firms should establish, implement and maintain policies and procedures necessary to be able to obtain an appropriate understanding regarding both the essential facts about their clients, and the characteristics of financial instruments available for those clients?

The "know your customer" rule has become a "must" in the relationship between intermediary and client.

The questionnaires, which are designed and implemented by investment firms, have huge importance and should not be perceived, either by the customer, nor by the intermediary, as a mere formality to be MiFID compliant.

The questionnaires should take into account all aspects and all conditions of the client that may affect any recommendation provided.

It is essential that the client understands clearly why this information is requested. The way an intermediary collects and processes this information has even more relevance. It's important that the criteria for self-assessment of the client are not interpreted by the investment firm in an ambiguous or confusing way. On the other hand, investment firms need simple, robust and reliable guidelines for obtaining and evaluating the essential facts about their clients so that their advice is safe-guarded in case of complaints e.g. because their clients are not satisfied with the performance of their investment vehicle.

III. Qualifications of investment firm staff

Q3: Do you agree that investment firms should ensure that staff involved in material aspects of the suitability process has the skills and the expertise to discharge their responsibilities?

Staff training is absolutely essential. And so is the self-responsibility of the customer. We often read about poor financial knowledge of customers and the need to deal with policies of financial education. Regardless of extensive training of the staff and all employees who get into contact with clients investment firms need to safeguard their advice by using simple,

robust and reliable schemes of which financial product fits which type of customers sophistication.

An intermediary must be able to analyse the amount of experience and suitability of a potential investor, to understand his needs and objectives and match this with the range of products and services he intends to offer, with constant updates over time. One of the reasons to maintain access to inducement is to finance the necessary training without passing the cost on to the client.

IV. Extent of information to be collected from clients (proportionality)

Q4: Do you agree that investment firms should determine the extent of information to be collected about the client taking into account the features of the service, the financial instrument and the client in any given circumstance?

We agree. In providing access to complex financial instruments or risky businesses the investment firm should bear in mind the need to collect more detailed information about the customer, in order to be able to assess the client's ability to understand and bear the financial risks associated with these instruments.

Especially for illiquid instruments, the length of time that the client is prepared to maintain the investment, is absolutely crucial and imperative. Flexibility is crucial as “one size doesn’t fit all”.

V. Reliability of client information

Q5: Do you agree that investment firms should take reasonable steps (and, in particular, those outlined above) to ensure that the information collected about clients is reliable and consistent?

We agree. Investment firms should avoid relying solely on self-assessment given by the client about his knowledge, experience and financial situation. Every self-assessment should be balanced by objective criteria.

We also believe that in order to ensure the accuracy of customer’s information, investment firms should evaluate the information gathered as a whole. It’s essential that the suitability of an investment it’s not only inherent to a client’s portfolio, managed by a single intermediary, but it’s necessary to consider all the assets of the customer who may also be managed by different companies. Otherwise it runs the risk of having a partial assessment of the client and therefore would be misleading.

VI. Updating client information

Q6: Do you agree that where an investment firm has an ongoing relationship with the client, it should establish appropriate procedures in order to maintain adequate and updated information about the client?

We totally agree, the information must be constantly updated, because the needs, objectives and the client's situation may change over time. In today's very volatile markets, an investment that was totally suitable just a year or two ago, may be too risky and unsuitable today. The policies and procedures established by the investment firm should in particular ensure that advising services take into account an adequate degree of diversification of risk and that the customer has an adequate understanding of the relationship between risk and return.

VII. Client information for legal entities or groups

Q7: Do you agree that regarding client information for legal entities or groups, the investment firm and the client should agree on how the relevant client information will be determined and, as a minimum, information should be collected on the financial situation and investment objectives of the beneficiary of the investment advice or portfolio management services ('end client')?

We totally agree. Same as Q5.

VIII. Arrangements necessary to ensure the suitability of an investment

Q8: Do you agree that in order to match clients with suitable investments, investment firms should establish arrangements to ensure that they consistently take into account all available information about the client and all characteristics of the investments considered in the suitability assessment?

We believe, as Esma states in the document, that investment firms that rely on tools in the suitability assessment process should have appropriate systems and controls to ensure that the tools are fit for purpose. Every system should take account of all the relevant specificities of each client and should be updated constantly. One of the reasons to maintain access to inducement is to finance all the needed arrangements and to avoid the costs of these services are charged to the customer.

IX. Record-keeping

Q9: Do you agree that investment firms should establish and maintain record-keeping arrangements covering all relevant information about the suitability assessment?

We agree. It is important in the event of a dispute between client and intermediary as well as for control purposes. Each record-keeping arrangements must be in accordance with the provisions relating to the European data protection.

We remain available for any further clarification you may require.

With kindest regards,
Vincent J. Derudder, Chairman

A handwritten signature in black ink, appearing to read "Vincent J. Derudder", is written below the printed name.