

## ESMA

# Guidelines on certain aspects of the MiFID suitability requirements

**Strengthening investor protection is an important role for ESMA, however a lack of consistent implementation of current standards across countries will mean any transition will need careful management. This is further complicated by uncertainty in the details of outstanding regulatory proposals such as MiFID, UCITS, PRIIPS as well as evolving national regimes.**

### Overall points

- Considerable benefits for investors and industry across the single market from consistent and harmonised standards and requirements for investor protection, but risk of unintended consequences during any transition period when choice and innovation may be restricted.
- A principle of 'less is best' is appropriate when communicating to information to consumers so any requirements which unnecessarily increased length and complexity is not necessarily right to achieve desired outcomes.
- Consideration needs to be given to how definitions and requirements contained across multiple regulatory proposals will work together in practice.
- Balance needs to be struck between benefits of having greater levels of protection against the societal needs to encourage long term saving and investment.

### Response to specific questions

- Q1 (Information re suitability assessment): Additional information requirements may benefit some investors but not all. Information needs to be short and easy to understand for consumers to act upon.
- Q2 (Arrangements to understand clients and investments): Further requirements are right in principle but caution against encouraging generic or boilerplate information which consumers then don't use. Currently firms are only required to provide rather generic information on the "nature" of financial instruments, which can be delivered in a standardised format.
- Q3 (Qualifications of staff): The ability to provide adequate and understandable information to clients is of course helped by qualifications but most important is the culture of the firm in achieving good outcomes for consumers.
- Q4 (Proportionality of information collected): We agree that the extent and detail of information will vary depending on a number of relevant issues. In practice however it might prove necessary to provide firms with more precise guidelines.

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- Q5 (Reliability of client information) and Q6 (Updating client information): The relevant considerations in the consultation paper make sense. It would be desirable to nevertheless double-check in each case that relevant additional requirements are sufficiently specific and workable. We see only a risk of unintended consequence if final version of guidelines would force the intermediaries to adopt open questions in questionnaire in order to avoid client's self assessment (with consequent very high cost in order to improve automatic suitability tools)
- Q9 (Record-keeping): We understand such requirements being reasonable, and generally not establishing particularly new demands. However, as regards the additional requirement in the very last paragraph of the draft guidelines (no. 47), at the end ("information about financial instruments... (including any changes...)"), we wonder how this would work in practice when there are no after-sales and/or updating/control requirements, so that the investment decision that has been properly made remains in the responsibility of the client only.

In summary we believe the critical issue is the sentiment of improved standards around suitability, but would caution against moves towards overly-lengthy and complex information which isn't proportional to the service or product being provided.

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