

## ESMA Consultation Paper Guidelines on certain aspects of the MiFID suitability requirements (ESMA/2011/445)

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Questions	EACT answers
1) Do you agree that information provided by investment firms about the services they offer should include information about the reason for assessing suitability?	Yes, because it is in the client's best interest and it is the sole responsibility of the investment firm.
2) Do you agree that investment firms should establish, implement and maintain policies and procedures necessary to obtain an appropriate understanding regarding both the essential facts about their clients, and the characteristics of financial instruments available for those clients?	Yes, for 2 reasons. 1. It is necessary that the investment firms should check by themselves the correct knowledge and experience of their clients by applying the basic 'Know Your Customer' principle, governing the relationship between an investment firm and a client 2. The assessment <i>questionnaires</i> are not sent systematically by the investment firms to all their clients, contrary to the current MiFID regulation.
3) 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?	Yes, in order to avoid a wrong assessment of the knowledge and experience of the clients by the investment firms and consequently the misselling by them of investment advice or portfolio management services.
4) Do you agree that investment firms should determine the extent of	Yes, by taking into account, not only the features of the services, the

information to be collected about the client taking in to account the features of the service, the financial instrument and the client in any given circumstances?	financial instruments and the client in any given circumstance but also the classification of the client (retail or professional). For this reason, EACT considers that the current presumption covering the professional client's knowledge and experience for the purpose of the suitability tests (according to the article 35 of the MiFID Implementing Directive) should be modified for the following reason: in order to comply with the conduct of business rules to clients, the investment firms should apply a duty of information adapted to the categorization of the client and the complexity of the financial instruments and not presume systematically the professional client has the knowledge and experience of the financial instruments and the risks it entail.
5) Do you agree that investment firms should take reasonable steps (and in particular, those outlines above) to ensure that the information collected about clients is reliable and consistent?	Yes, to avoid the main two risks b) and c) described page 7 on ESMA consultation (respectively, tendency of firms to overlook the client's education level and profession, tendency of firms to rely excessively on assessments by the clients themselves of their level of knowledge, experience and financial situation).
6) 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?	Yes, because the knowledge and experience of the client on same services may change, notably when the authorized client's operators to deal financial transactions are moving.
7) Do you agree that regarding client information for legal entities or groups, the investment firm and the client should agree on how the relevant information will be determined and, as an 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')?	Yes because the level of knowledge and experience between two natural person authorized to deal for the account of a same legal entity may differ significantly from one person to another one.

8) 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?	Yes to ensure the respect of the a), b) c) and d) points mentioned in § 46 by ESMA on page 14 of its consultation paper.
9) Do you agree that investment firms should establish and maintain record-keeping arrangements covering all relevant information about the suitability assessment?	Yes to secure the adequate application of suitability requirements by the investment firm to its management, the regulator and the client in case of dispute between the client and the investment firm.