



Response of CNCIF on consultation paper "Guidelines on certain aspects of the MiFID suitability requirements"

The Chambre Nationale des Conseillers en Investissements Financiers (« CNCIF ») is a self-regulated organization in charge of the representation and defence of financial investment advisors. Members of the CNCIF may operate as investment services providers under MiFID or under the specific status of financial investment advisor set forth by the Monetary and Financial Code¹. In the former case, membership to the CNCIF is not mandatory. In the latter case, membership to a professional association such as CNCIF is mandatory.

Regardless of the status, members of the CNCIF have a common interest in expressing their views on the suitability requirements under MiFID, as such requirements apply under applicable French rules apply without distinction to investment services providers and financial investment advisors. It should also be noted that members of the CNCIF are usually in direct contact with end-user customers of financial products or services and are therefore particularly well suited to provide their views on the questions raised by the ESMA consultation paper on the draft guidelines on certain aspects of the MiFID suitability requirements.

In general, the CNCIF widely supports the proposals contained in the draft guidelines.

Q1: Do you agree that information provided by investment firms about the services they offer should include information about the reason for assessing suitability? Please also state the reasons for your answer.

Yes. Whenever investment firms use third party marketers for their products, they usually rely on such third party marketers to conduct the suitability assessment which they are required to run. Investment firms should be encouraged to make sure that the third party marketers are provided with tools that are adequate for carrying out such a suitability test. The CNCIF encourages the ESMA to come up with an harmonized set of rules in order to assess risk-reward profiles uniformly among European Member States.

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? Please also state the reasons for your answer.

Yes. The CNCIF agrees that investments firms should know both their clients and the products they are offering. The CNCIF suggests that with regards to client knowledge, the ESMA should issue guidelines as to the minimal contents of the client questionnaires that should be filled in by the clients, in order to foster harmonization of the knowledge requirements among European Member States. As regards product knowledge, the CNCIF observes that a number of service providers offer tools that enable sales forces to "rank" products. ESMA should encourage investment firms to widely communicate such "rankings" to their clients.

¹ Art. L541-1 et seq. Monetary and Financial Code.

Q3: Do you agree that investment firms should ensure that staff involved in material aspects of the suitability process have the skills and the expertise to discharge their responsibilities? Please also state the reasons for your answer.

Yes. All members of the CNCIF are required to attend mandatory training. A similar obligation should be imposed on all employees of investment firms involved in material aspects of the suitability process.

Q4: Do you agree that investment firms should determine the extent of 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 circumstance? Please also state the reasons for your answer.

Yes. The CNCIF favours an harmonized level playing field of minimum information to be obtained from the client but agrees that certain exemptions should be available. In particular, where the investment service consists in the provision of investment advice to a 'per se professional client' the firm is entitled to assume that the client is able to financially bear any related investment risks consistent with the investment objectives of that client and therefore is not generally required to obtain information on the financial situation of the client. Such information will be required, however, where the client's investment objectives demand it.

The CNCIF finally considers that if an investment firm does not obtain sufficient information in order to be able to provide an advisory service that is suitable for the client, it must either refrain from providing any such service to that client, or act upon specific instructions from the client, subject to a clear discharge.

Q5: Do you agree that investment firms should take reasonable steps (and, in particular, those out-lined above) to ensure that the information collected about clients is reliable and consistent? Please also state the reasons for your answer.

Yes. However, the CNCIF underlines that producers of the financial products to be sold by third party marketers should be responsible for providing to such third party marketers tools that are adapted to the marketing of their products. In other word, the responsibility must be shared among the producers and the marketers in this area.

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? Please also state the reasons for your answer.

Not necessarily. The CNCIF considers that this depends on the nature of the relationship with the client. For example, investment advice should not necessarily require an update of the client information if it is limited in amount or in nature.

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')? Please also state the reasons for your answer.

Yes.

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? Please also state the reasons for your answer.

Yes, but this largely depends on the nature of the products sold. Simple products should not require firms to have elaborate tools in place and a broad classification of the clients or the financial instruments would in this case be acceptable.

Q9: Do you agree that investment firms should establish and maintain record-keeping arrangements covering all relevant information about the suitability assessment? Please also state the reasons for your answer.

Yes. This requirement is also a good practice in order to mitigate the liability of the investment firm over time. Documenting in order to track ex-post how and why an investment was made should be encouraged.