Comments

Response on Consultation Paper
On integrating sustainability risks and factors in MiFID II

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Q1: Do you agree with the suggested approach and the changes to the Article 21 of the MiFID II Delegated Regulation on 'general organisational requirements'? Please state the reasons for your answer.

We refer to the response of the German Banking Industry Committee.

Q2: Do you agree with the suggested approach and the changes to the Article 23 of the MiFID II Delegated Regulation on 'risk management'? Please state the reasons for your answer.

We refer to the response of the German Banking Industry Committee.

Q3: Do you agree with the suggested approach and the new recital on 'conflicts of interest'? Please state the reasons for your answer. What would be specific examples of conflicts of interests that might arise in relation to sustainability considerations?

We refer to the response of the German Banking Industry Committee.

Q4: Do you think that on the topic of 'organisational requirements' other amendments should be made to the MiFID II Delegated Regulation in order to incorporate sustainability risks and factors? If yes, which ones? Please state the reasons for your answer.

We refer to the response of the German Banking Industry Committee.

Q5: Which existing market standards or "labels" are you intending to take into account or already taking into account for the consideration of ESG factors? Do you see any issues when relying on current market standards or "labels"? Please describe.

We refer to the response of the German Banking Industry Committee.

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Q6: Do you agree with the suggested approach and the proposed amendments to the MiFID II Delegated Directive Articles on 'product governance'? If not, please explain.

We welcome ESMA's proposal to integrate sustainability in the target market as a new target market criterion as it allows the already established processes for MiFID II to be used. We like to point out, however, that currently there is no established (market) standard for mass retail business that would allow for a simple determination of the target market. Accordingly, there is no certainty for manufacturers or distributors how to evaluate the sustainability of a product. To make the system work effectively standardization is needed that allows the sale of ESG products in mass retail business. Otherwise, manufacturers might be reluctant to declare their products to be sustainable, which in turn may lead to the distributors being unable to offer any suitable products with sustainability preferences to their clients. This would jeopardize the aim of the EU commission to foster investment in ESG-products as well as its comparability.

Furthermore, we suggest that ESMA proposes a period of 1 1/2 years for the implementation of the additional requirements so that the institutions have sufficient time to implement the technically demanding adjustments, i.e. provision of the manufacturer's target market data to the distributor and adaptation of the distributors' IT-supported mapping processes.

Q7: Do you agree with the proposed changes to the ESMA Guidelines on MiFID II product governance requirements and the addition of an additional case study? If not, please explain what changes should be made and why.

In general, we do agree with the proposed changes by ESMA. We would like to stress in this context, that as illustrated in our answer to question 6, in the absence of an established (market) standard, manufactures as well as distributors struggle to categorise a product as sustainable. Therefore, the inclusion of ESG-criteria in the suitability assessment and the product governance target market assessment is a challenge to all market participants. Additionally, a lack of ESG (market) standard impedes comparability of investment alternatives. From our point of view the proposal for amending the Delegated Act should be seen as a first step in a process. We argue for a high level approach for the target market characteristics. Hence, until the legal requirements are in place, the target market criteria should only be sustainable (yes) or sustainable (no). This would also reflect the possible individual design of ESG investment policies of manufacturers that the EU Commission currently proposed to include in the Disclosure Regulation. At the current stage, more detailed requirements would lead to

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costly IT implementations that will be outdated and, thus, need extensive adjustments, once the legal requirements are decided upon.

Concerning the additional case study, it is our opinion that it should be omitted. The description used extends beyond the target market definitions and is hence too granular.

Q8: Do you think extra guidance is needed on the elements listed in paragraph 15 above? If yes, please provide details.

We refer to the response of the German Banking Industry Committee.

Q9: Please specify any approach you see to identify environmental, social and governance criteria separately from each other or as a single indicator. Please explain how the criteria would interact with each other and how the target market assessment and matching would be performed in such cases.

We refer to the response of the German Banking Industry Committee.

Q10: What current market standards or "labels" are you intending to take into account or already taking into account for the consideration of ESG factors? Do you see any issues when relying on current market standards or "labels"? Please describe.

We refer to the response of the German Banking Industry Committee.

Q11: Do you agree with the suggested approach and the amendments to paragraph 28 of the suitability guidelines? If not, do you have any suggestions for developing a more de-tailed approach with regard to (a) the collection of information from clients and (b) the assessment of ESG preferences with the assessment of suitability?

We refer to the response of the German Banking Industry Committee.

Q12: Please specify any approach you see to assess environmental, social and governance criteria separately from each other or as single preferences. Please explain how the criteria would interact with each other and how the suitability assessment would be per-formed in such cases.

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Q13: Do you agree with the suggested approach and the amendments to paragraph 70 of the suitability guidelines?

We refer to the response of the German Banking Industry Committee.

Q14: What level of resources (financial and other) would be required to implement and com-ply with the proposed changes (risk-management arrangements, market researches and analyses, organisational costs, IT costs, training costs, staff costs, etc., differentiated between one off and ongoing costs)? When answering this question, please also provide information about the size, internal organisation and the nature, scale and complexity of the activities of your institution, where relevant.

19.02.2019

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