

ESMA

CS 60747 - Rue de Grenelle
75345 Paris Cedex 07, France

Milan, 29 April 2021

Consultation: Guidelines on certain aspects of the MiFID II appropriateness and execution-only requirements

ANASF, the national Association representing financial advisors authorised to offer investment services outside the premises of financial intermediaries (*consulenti finanziari abilitati all'offerta fuori sede*), would like to express a few considerations regarding the subject of the consultation paper.

Q1. Do you agree with the suggested approach on providing information about the purpose of the appropriateness assessment? Please also state the reasons for your answer.

Yes, we agree with the approach proposed by ESMA. The assessment phase is fundamental for the whole investment process and it is a protection provided to the client when the commercialisation service of products is offered. It is nonetheless fundamental that investors acknowledge that it is required by the law for its own protection and is distinct from suitability assessment that is performed when advisory is provided.

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Q2. Do you agree with the suggested approach on the arrangements necessary to understand or warn clients? Please also state the reasons for your answer.

Yes, we definitively agree. Appropriateness-assessment questionnaires are fundamental tools to gather relevant information from clients in order to assess the understanding of main features and relevant risks of certain investment products offered by the company. We agree in particular on the fact that, in assessing knowledge and expertise of investors, companies set procedures aimed at ensuring that clients are not encouraged to make a self-assessment of their own knowledge and expertise, especially when profiling gets done by means of automatized tools. This is the reason why it is always fundamental the support of a professional that guides the client through the comprehension of questions posed into the assessment questionnaire or during the interview. It is necessary to highlight that, after the MiFID II introduction,

appropriateness questionnaires were overhauled and aligned to a greater extent with the purposes identified by the ruler.

Q 3. Do you agree with the suggested approach on the extent of information to be collected from clients? Please also state the reasons for your answer

Yes, we agree, as soon as client protection is ensured independently from his/her class. This will still hold true if a new client class (namely, the semi-professional one) will be introduced during MiFID II overhauling. It has to be paid particular attention, by the subject who perform appropriateness assessment, to the case in which investment concerns complex or risky products, that need more detailed information on knowledge and expertise of the client than that required for a less risky and less complex product.

Q4: Do you agree with the suggested approach regarding the appropriateness assessment relating to a service with specific features (paragraph 34 of the Guidelines)? In particular, do you agree with the examples provided (bundled services and short selling), or would you suggest including other examples? Please also state the reasons for your answer.

Yes, we think that the examples provided are useful and relevant.

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Q5: Do you agree with the suggested approach on the reliability of client information? Please also state the reasons for your answer.

We think that the approach suggested is right. It is necessary that firms are able to identify the contradictions among the information gathered, regardless of the channel used to gather it. The verification of the affordability of information allows also performing money-laundering controls.

Q6: Do you agree with the suggested approach on relying on up-to-date client information? Please also state the reasons for your answer.

Information should be updated in order to ensure a customer-protection service. Therefore, it is proper that firms adopt valid systems to monitor information gathered from their clients and its variations. The financial advisor has a fundamental role in this sense since he/she has the possibility to verify immediately if there were significant changes in the information provided during the first profiling that need to be noted. Adequate protection, that prevent the client from providing anew information on his/her knowledge and expertise in order to be able to purchase a product - that was not appropriate for him/her before - while a real change in his/her level of knowledge/expertise hasn't occurred, has to be introduced.

Q7: Do you agree with the suggested approach on client information for legal entities or groups? Please also state the reasons for your answer.

Yes, we agree on the approach identified. It could be useful to provide concrete examples to identify the most frequent relevant cases of this Guideline.

Q8: Do you agree with the suggested approach on the arrangements necessary to understand investment products? Please also state the reasons for your answer.

Yes, we agree on the Guideline proposed. The appropriateness assessment has to be in line with rules on product governance, that identify the relevant target of financial products offered by the firm with respect to a given client target. In order to make effective the coordination of appropriateness and product governance rules it is necessary that staff that perform client profiling as well as those who develop assessment algorithms and those who participate to the updating of assessment and projecting processes are adequately trained.

Q9: Do you agree with the suggested approach on the arrangements necessary to assess the appropriateness of an investment or else issue a meaningful warning? Please also state the reasons for your answer.

Yes, we agree. Nevertheless, it is fundamental that the human intervention from the financial advisor has a primary role during the whole process, so that he can guide the client, even in using automated tools for profiling. Questionnaires' updating and errors' identification, even concerning the algorithms employed, require adequate technical and, most of all, human resources. Training of the staff employed in every phase of the process is likewise essential. Moreover, it is fundamental that companies design clear and transparent policies and procedures that allow them to issue a clear and unambiguous warning when they believe that the investment product or service is not appropriate for the actual or potential client.

Q10: Do you agree with the suggested approach on the effectiveness of warnings? Please also state the reasons for your answer.

The identified Guideline is clear, even though we have some doubts about the effective application and the formulation of these warnings, considering that they are not so transparent in practice. ESMA could consider the possibility of issuing a standard warning that could be uniformly used by all firms.

Q11: Do you agree with the suggested approach on the qualifications of firm staff? Please also state the reasons for your answer.

Yes, we definitively agree on the fact that staff that provides information about investment products and services or ancillary services to clients on behalf of the firm has to possess the knowledge and skills required by MiFID II, even for what concerns the appropriateness assessment. Even staff that does not speak directly to clients, but is involved in the appropriateness assessment (for example, in designing the questionnaires), should possess the necessary knowledge and skills required by its role inside the appropriateness process.

Q12: Do you agree with the suggested approach on record-keeping? Please also state the reasons for your answer.

Yes, we agree on Guidelines identified by the Authority for the record keeping of the appropriateness assessment, included the gathering of information from the customer and the provision of advisory services.

Q13: Do you see any specific difficulties attached to the requirement to keep records of any warnings issued and any corresponding transactions made by clients?

We think that digital tools currently available allow us to keep track of the processes used during the investment phases.

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Q14: Do you agree with the suggested approach on determining situations where the appropriateness assessment is needed? Please also state the reasons for your answer.

Yes, we agree. It is necessary to identify clearly when suitability and appropriateness rules apply and remaining provisions concerning execution only. The client must understand in a clear way which protection differences aim at him/her.

Q15: Do you agree with the suggested approach on controls? Please also state the reasons for your answer.

Yes, of course. Firms should monitor and control adequately the appropriateness process in order to ensure the enforcement of provided requirements. If automated tools for profiling are used, or for warnings, such tools should be verified constantly with periodic checks.

Q16: When providing non-advised services, should a firm also assess the client's knowledge and experience with respect to the envisaged investment product's sustainability factors and risks? If so, how should such sustainability factors and risks be taken into account in the appropriateness assessment? Please also state

the reasons for your answer.

Yes, it is necessary that inside the appropriateness-assessment questionnaire are introduced specific questions concerning customers' knowledge and expertise with respect to risks and factors linked to sustainability. ESG criteria are not a fad: they are essential, unavoidable and fundamental in order to determine if a product is appropriate for the customer. It is thus important that factors and risks tied to sustainability are integrated into the appropriateness-assessment process.

ANASF, in thanking you for your attention, is at your disposal for any queries you may have.

Best Regards,



Luigi Conte
ANASF President