

CCOO Services response to ESMA consultation on draft guidelines on certain aspects of MiFiD II suitability requirements, including sustainability issues

INTRODUCTION

CCOO is the leading trade union in Spain in terms of membership and delegates elected in trade union elections.

CCOO is structured in Federations, according to the activity or sector to which the company belongs, and Unions, according to the territory where the work centre is located. In the case of the financial sector, this is integrated in the Federation of Services (CCOO Services).

CCOO is a democratic, class-based trade union organization made up of workers who join voluntarily and in solidarity to defend our interests and to achieve a fairer, more democratic and participatory society.

CCOO is a demanding and participative trade union that aims to represent and defend the interests of the salaried world, pensioners, the unemployed, migrants, immigrants and young people.

CCOO is a trade union that acts autonomously and independently of the economic powers, the state and any other interests unrelated to its aims, and also of political parties.

CCOO is a socio-political trade union that not only demands better working and living conditions, but also takes on the defense of everything that affects us as workers, inside and outside the company.

In addition, CCOO is committed to sustainability, which is part of our challenges to be deployed not only in the socio-labour spheres but also by contributing to its development in the public sphere and in collective bargaining. In this regard, we support the development and growth of sustainable finance and the work of global and European policy makers to enable a sustainable, transparent and reliable investment market through appropriate and well-designed regulation and practices.

On this occasion and for this public consultation process on the draft guidelines on certain aspects of the MiFiD II suitability requirements, including sustainability issues, CCOO Services will focus our contributions on those aspects that affect or may affect the working conditions of the financial sector staff to whom all MiFiD II regulations apply and with whom all MiFiD II regulations must be complied with.

GUIDELINE 1 - CLIENT INFORMATION ON THE PURPOSE AND SCOPE OF THE SUITABILITY ASSESSMENT
<p>Q1: Do you agree with the suggested approach on informing clients about the purpose of the suitability assessment and its scope? Please also indicate the reasons for your answer.</p>
<p align="center">Response CCOO-Services</p>
<p>Although CCOO-Services agrees with the need to inform clients about the purpose and scope of the suitability assessment in general terms, we would like to point out that, for practical purposes, introducing explanations in terms of "sustainability preferences" may lead to an increase in the complexity of the information and advice to be given by staff and may interfere negatively with the main objective of client protection. Therefore, we see it as more appropriate to carry out the assessment of suitability in general terms at the first interview. And once it is known whether the potential investor is suitable or not, information and advice on sustainability should be provided on the types of products for which the investor is suitable.</p>
<p>Q2: Do you agree with the new supporting guideline in relation to customer information on the concept of sustainability preference or do you think that the information requirement should be further expanded? Please also indicate the reasons for your answer.</p>
<p align="center">Response CCOO-Services</p>
<p>At present, the responsibility for providing adequate information and advice on investment products and services and in accordance with MiFID II criteria rests solely with the staff of the banking sector who perform these functions and secondarily with the firms.</p> <p>Now, we want to introduce one more variable in the information and advice processes: sustainability. A variable that is totally unknown to society in general and about which there is no prior training.</p> <p>In this sense, we believe it is advisable for governments, central banks and/or regulators to reinforce financial education and education in sustainable finance for citizens so that they can acquire basic knowledge and, when requesting/receiving information and/or advice on investment matters, can make more qualified decisions.</p> <p>As a suggestion, and in line with the above, institutions could provide a manual of basic concepts that customers should read and understand as a prior step to carrying out the corresponding suitability and appropriateness tests and as a prior step to deciding on their preferences in terms of sustainability.</p> <p>Furthermore, the use of simpler, non-technical language should be implemented in all elements of MiFID II so that customers can clearly understand the information and advice received by staff and make decisions freely and in full knowledge of the characteristics and risks associated with the products to be contracted.</p>

GUIDELINE 2 - AGREEMENTS NECESSARY TO UNDERSTAND CUSTOMERS
<p>Q3: Do you agree with the suggested approach on the arrangements needed to understand clientele and specifically how the guidance was updated to take account of client sustainability preferences? Please also provide reasons for your response. Are there alternative approaches, other than the one suggested in Guideline 2, that you consider meet the requirements of MiFID II and that ESMA should consider? Please provide examples and details.</p>
Response CCOO-Services
<p>In line with the answer to question Q2, in order for clients to be able to express their sustainability preferences, they should have some prior knowledge of this element. The responsibility for providing qualified information on a complex subject matter, which may lead to arbitrary results in decision-making by investors, or to occupational risks for staff in terms of the degree of professionalism with which they have provided the information and/or advice, cannot be placed on the staff providing the information and advice.</p>

Q4: Do you think more guidance is needed to clarify how companies should assess the sustainability preferences of customers?

Response CCOO-Services

CCOO-Services believes that more specific guidance needs to be provided so that staff reporting and advising on investment matters are fully aware of how to match clients' sustainability preferences with products that reflect sustainability features in terms of Art. 2(7) MiFID II DR. In addition, further guidance is also needed on how different elements under Art. 2(7) MiFID II DR translate into different degrees of sustainability objectives or expectations related to sustainability.

In addition, staff providing investment information and advice should receive clear and specific guidance on how to document client preferences and sustainability choices about available products.

Q5: Where clients have expressed a preference for more than one of the three product categories mentioned in points (a), (b) or (c) of the definition in Article 2(7) of the MiFID II Delegated Regulation, do you think the Guidelines should provide additional guidance on precisely what is expected of advisors when investigating and prioritising these simultaneous/overlapping preferences?

Response CCOO-Services

In line with previous answers, if the clientele had prior knowledge in these matters, the staff of financial companies would have the role to provide additional guidance and be able to explain to the clientele how the products differ with respect to sustainability-related expectations and to document which aspects may be and why they are particularly decisive for the investor. To this end, staff should have clear and specific guidelines on how to provide this service.

GUIDELINE 7 - AGREEMENTS NECESSARY TO UNDERSTAND INVESTMENT PRODUCTS

Q8: Do you agree with the suggested approach to the arrangements for understanding investment products?
Please also indicate the reasons for your response.

Response CCOO-Services

CCOO-Services believes that measures should be taken to ensure that customers fully understand investment products and services and all their elements, including those related to sustainability. However, although the staff of the companies currently have the training, knowledge and experience to provide this information and advice service with the highest standards of professionalism and qualification, we consider that more financial education and education in sustainable finance should be reinforced in order to meet the main objective of customer protection, in line with Q2 of Guideline 1.

And, of course, CCOO-Services supports companies adopting and making available to their staff the objective, non-manipulable and robust procedures, methodologies and tools necessary for customers to understand financial products and make qualified decisions.

GUIDELINE 11 - COMPANY STAFF QUALIFICATIONS
<p>Q18: Do you agree with the additional guidance with regard to the qualification of company staff or do you think further guidance is needed on this aspect? Please also indicate the reasons for your answer.</p>
Response CCOO-Services
<p>CCOO-Services supports ESMA's proposal regarding the need for adequate training for staff. Understanding and explaining the different terms used in the EU sustainable finance regulations and, in particular, explaining the definitions in Art. 2(7) MiFID II DR requires extensive knowledge and competence on the part of staff reporting and advising on investment matters.</p> <p>To this end, we consider it appropriate that ESMA, in addition to including this new section in the "Guidelines for the Assessment of Knowledge and Competences", should include a specific point detailing each of the elements or subjects that should form part of the sustainable finance syllabus.</p> <p>In addition, clear criteria should also be established on how staff should explain all MiFID II-related terms in simple, non-technical language. In this respect, it might be a good idea to have a "practical guide on the use of simple and non-technical language for staff reporting and advising on investment matters".</p> <p>Linked to the issue of training, we also consider it advisable for companies to provide training in "algorithmic information and advice", both for cases in which algorithms are used in their entirety and for partial use in which there is also human participation in the process. It is essential for staff to be aware of the logic behind the use of AI when it comes to information and investment advice in order to be able to resolve any doubts that this methodology may generate and to know how to explain why it is being used. And, as in the previous case, it would be advisable for ESMA to establish content on this subject, including guidelines on the use of simple, non-technical language.</p> <p>Lastly, and with regard to all the new developments in the field of company staff qualifications, we believe it is advisable that before any publication by ESMA, a public consultation period should be opened so that the different interest groups can make the appropriate assessments and contributions.</p>