



## **Consultation Paper** **Review of the Guidelines on MiFID II product governance requirements – response of the Polish Brokerage Houses Chamber (IDM)**

### **About the Polish Brokerage Houses Chamber (IDM)**

IDM established in 1996 is a voluntary organization of investment companies created on chamber of commerce character. IDM has 19 members: 6 banks (brokerage divisions) and 13 investment firms. Members of IDM account for 99% of trading volumes (shares, bonds, futures) on the Warsaw Stock Exchange among local members of the Exchange.

The organization represents the interest of the whole investment companies community to parliament, government and general public.

Within the Association there are numerous consultative committees, councils, task forces and other bodies. Their objective is to develop and issue opinions and positions in matters determining the correct operation of the Polish capital market system.

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### **Answer on the questions asked by ESMA**

Q1: Do you agree with the suggested clarifications on the identification of the potential target market by the manufacturer (excluding the suggested guidance on the sustainability-related objectives dealt with in Q2)? Please also state the reasons for your answer.

In our opinion, the ESMA proposal clarifies the information about the potential target market which help lead to a better fit for the client by the distributor.

The recommendation that „Firms should use the risk indicator stipulated by the PRIIPs Regulation or the UCITS Directive, where applicable, to fulfil this requirement” may lead to some organizational problems due to the use of different scales by different manufacturers.

Q2: Do you agree with the suggested approach on the identification of any sustainability-related objectives the product is compatible with? Do you believe that a different approach in the implementation of the new legislative requirements in the area of product governance should be taken? Please also state the reasons for your answer.

„Sustainability preferences” and „sustainability objectives” are two different terms. In our opinion „investment objectives” are more broadly defined than „sustainability preferences” but it need further clarification by the legislator.

Q3: What are the financial instruments for which the concept of minimum proportion would not be practically applicable? Please also state the reasons for your answer

Currently we do not identify categories of financial instruments for which the reference to “minimum proportion” would not be possible.

Q4: Do you agree with the suggested guidance on complexity in relation to the target market assessment and the clustering approach? Please also state the reasons for your answer.

In our opinion the clustering approach should be permitted because may be very useful for investment firms. Simplify target market definition and it leads to a simplification of the distribution strategy. It requires the implementation of an internal methodology by the investment company

Q6: Do you agree with the suggested guidance on the identification of the target market by the distributor? Please also state the reasons for your answer.

We point out that there are cases when the distributor has limited access to the manufacturers' target market description.

Q7: Do you agree with the suggested approach on the determination of distribution strategy by the distributor? Please also state the reasons for your answer.

In our opinion there is no obligation of a warning (paragraph 56 of the draft). In case when a product is distributed without an investment advisory service, the investment firm is not obliged to ensure that the product is suitable for the client. In investment advice services such a product should not be recommended for clients but other clients should not expect the company to test the suitability of such a product for them.

Clients who do not use investment advisory services should not expect an analysis of the product from the point of view of suitability. Guidelines does not indicate what should be included in such a warning.

Q8: Do you agree with the suggested approach on the deviation possibility for diversification or hedging purposes when providing investment advice under a portfolio approach or portfolio management? In particular, do you agree that a deviation from the target market categories "type of client" and "knowledge and experience" cannot be justified for diversification or hedging purposes, neither in the context of investment advice under a portfolio approach, nor portfolio management? Please also state the reasons for your answer.

It is important to continue to allow firms to deviate from the identified target market for a product when the product is used for diversification or hedging purposes when providing investment advice under a portfolio approach or portfolio management, provided that the portfolio or hedge is suitable for the client.

The proposed solution (paragraph 64 of the draft) prevents the client from obtaining a specific profile in terms of knowledge and experience, which prevents him from advising on diversification or portfolio security. In our view, the requirement here should be much more liberal and leave some flexibility to the investment firm regarding this requirement.

Q9: Do you agree with the suggested approach on the requirement to periodically review products, including the clarification of the proportionality principle? Please also state the reasons for your answer.

The distributor is obliged to provide the manufacturer with information from his own review. This obligation should be limited to information about incorrect definition of the target market and its timeliness, and should be of a subsidiary nature.

The producer should bear the primary responsibility and the actions of distributors should not replace the actions of the producer.