



MIFID II SUITABILITY REQUIREMENTS

References: I of Article L. 533-13 of the Monetary and Financial Code and Articles 54 and 55 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016

The AMF applies all the guidelines issued by the ESMA¹ on "*certain aspects of the MiFID II suitability requirements*" (ESMA-35-43-1163).²

These guidelines were enacted on the basis of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014, called MiFID II, transposed into national law in the Monetary and Financial Code, and its Commission Delegated Regulation (EU) 2017/565 of 25 April 2016. The purpose of these guidelines is to clarify the procedures that must be carried out by investment services providers (ISPs) to verify the suitability requirements of the MiFID II directive in order to ensure the common, uniform and consistent application of EU law. They contribute to the establishment of consistent supervisory practices regarding the professional obligation for ISPs providing third-party investment advisory services or portfolio management services to ensure the suitability of the investment services or products for the client's profile.

The twelve ESMA guidelines are incorporated in the present position. They provide clarifications regarding the following aspects:

- Information to be provided to clients regarding the purpose of the suitability assessment (i.e., recommending suitable products and services);
- Information to be gathered from clients;
- Ensuring that the suitability checks are proportional to the services and products;
- Adopting reasonable measures to verify the reliability of the information gathered;
- Updating client information;
- Specific cases of groups or legal entities;
- Acquisition of knowledge of the characteristics of the financial instruments recommended or in which it is planned to invest on behalf of clients;
- Procedures to be employed to ensure the suitability of the investments for clients;
- Assessment of the existence of equivalent products that are less costly or less complex;
- Assessment of the cost-benefit ratio before switching investments;
- Staff training;
- Record-keeping obligations.

Scope of application of the position

¹ European Securities and Markets Authority

² Published on 6 November 2018

The provisions of this position apply to ISPs for portfolio management and investment advisory services provided to non-professional clients, and, insofar as they are relevant, the same services provided to professional clients, in accordance with the provisions of Article 54, Paragraph 3 of Commission Delegated Regulation (EU) 2017/565³ and Annex II to the MiFID II Directive.

These guidelines are available in the section "Appendices & links":

- In French: Orientations concernant certains aspects relatifs aux exigences d'adéquation de la directive MiFID II
- In English: Guidelines on certain aspects of the MiFID II suitability requirements

³ "Where an investment firm provides an investment service to a professional client it shall be entitled to assume that in relation to the products, transactions and services for which it is so classified, the client has the necessary level of experience and knowledge for the purposes of point (c) of paragraph 2.

Where that investment service consists in the provision of investment advice to a professional client covered by Section 1 of Annex II to Directive 2014/65/EU, the investment firm shall be entitled to assume for the purposes of point (b) of paragraph 2 that the client is able financially to bear any related investment risks consistent with the investment objectives of that client."