

Milan, 27 April 2021

ESMA

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Prot. n. 19/21

Re: ASSOSIM contribution to ESMA CP on *Guidelines on certain aspects of the MiFID II appropriateness and execution-only requirements*

ASSOSIM¹ welcomes the opportunity to provide comments on the ESMA's Consultation paper in subject as better detailed here below.

➤ ***Guideline 5: Relying on up-to-date client information***

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

On the one hand, we share the principle, also expressed in ESMA's suitability guidelines, that the intermediary must inform customers of the need to report any variation with respect to the profile that emerged from the suitability assessment. However, on the other hand, we consider the provision set out in paragraph 44 of the draft guidelines (requiring the intermediary to intercept possible unusual transactions and to update customer information on the basis of this monitoring) not compliant with such principle.

In this respect we note that the reference to "unusual transactions" is not clear although we acknowledge that such criterion would need to be applied on a case-by-case basis. We would appreciate if ESMA could provide examples of "unusual transactions".

It is our opinion that the concept of reliability of client information should be implemented as set out in paragraph 53 of ESMA's suitability guidelines which provides that "*Firms should regularly*

¹ *Associazione Intermediari Mercati Finanziari - ASSOSIM* is the Italian Association of Financial Markets Intermediaries, which represents the majority of financial intermediaries acting in the Italian Markets. Assosim has nearly 80 members represented by banks, investment firms, branches of foreign brokerage houses, active in the investment services industry, mostly in primary and secondary markets of equities, bonds and derivatives, for some 82% of the Italian total trading volume.

review client information to ensure that it does not become manifestly out of date, inaccurate or incomplete. To this end, firms should implement procedures to encourage clients to update the information originally provided where significant changes occur”.

➤ **Guideline 7: Arrangements necessary to understand investment products**

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

With reference to paragraph 54 of the draft guidelines we would suggest to amend the wording as follows:

*“For example, for more complex investment products with particular features, this may require more detailed processes and firms should, ~~where possible,~~ **where a more in-depth analysis is considered necessary,** not solely rely on one data provider in order to understand and classify investment products but should check and challenge such data or compare data provided by multiple sources of information”.*


➤ **Sustainable finance**

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.

We believe that assessing the client’s knowledge and experience with respect to sustainability factors and risks may have unintended negative consequences because it could limit the client’s access to a range of investment products. In fact, the assessment could lead to a negative result (e.g., the client does not have any knowledge and experience about sustainability factors and risks) even if, potentially, investing in “green” products could be beneficial for the client itself. In such case, the intermediary might consider appropriate for the client products other than those labelled as “green” (e.g., “black” or “brown” products) and therefore (paradoxically) more risky from an environmental/sustainability perspective. Therefore, we think that the outcome of the assessment with reference to sustainability wouldn’t have to be decisive/useful to consider a transaction as “appropriate” for the client.

We remain at your disposal for any further information or clarification.

Yours faithfully,



Gianluigi Gugliotta
Secretary General