

# ESMA publishes final guidelines on MiFID II suitability requirements



PUBLISHED SEP 23, 2022  
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The assessment of suitability is one of the most important requirements for investor protection in the MiFID framework. It applies to the provision of any type of investment advice, whether independent or not, and to portfolio management.

The main amendments introduced to the MIFID II Delegated Regulation and reflected in the guidelines on the topic of sustainability are:

Information to clients on the sustainability preferences – Firms will need to help clients understand the concept of sustainability preferences and explain the difference between products with and without sustainability features in a clear manner and avoiding technical language;

Collection of information from clients on sustainability preferences – Firms will need to collect information from clients on their preferences in relation to the different types of sustainable investment products and to what extent they want to invest in these products;

Assessment of sustainability preferences – Once the firm has identified a range of suitable products for client, in accordance with the criteria of knowledge and experience, financial situation and other investment objectives, the firm shall identify the product(s) that fulfil the client's sustainability preferences; and

Organisational requirements – Firms will need to give staff appropriate training on sustainability topics and keep appropriate records of the sustainability preferences of the client (if any) and of any updates of these preferences.

This Final Report builds on the text of the 2018 ESMA guidelines, which have been reviewed to consider:

the adoption by the European Commission of the changes to the MiFID II Delegated Regulation to integrate sustainability factors, risk and preferences into organisational requirements and operating conditions for investment firms;

the good and poor practices identified in ESMA's 2020 Common Supervisory Action (CSA) on suitability. These good and poor practices will give practical guidance to firms in some areas where lack of convergence was identified; and

the amendments introduced through the Capital Markets Recovery Package to Article 25(2) of MiFID II.

By pursuing the objective of ensuring a consistent and harmonised application of the requirements in the area of suitability, including on the topic of sustainability, the guidelines will contribute to the achievement of the objectives of MiFID II.

## Background

ESMA conducted a public consultation on these Guidelines to gather the views of relevant stakeholders. The report published today contains a feedback statement summarising the responses received and highlighting the amendments and clarifications introduced in the final guidelines to consider the feedback received during this consultation.

## Next steps

The Guidelines will be translated into the official languages of the EU and published on ESMA's website. The publication of the translations will trigger a two-month period during which national competent authorities must notify ESMA whether they comply or intend to comply with the Guidelines. The Guidelines will apply six months after the date of the publication on ESMA's website in all EU official languages.

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*Press release distributed by Media Pigeon on behalf of Europa, on Sep 23, 2022. For more information subscribe and [follow](#) us.*

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