ESMA REVIEWS MIFID II PRODUCT GOVERNANCE GUIDELINES



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The main proposals in the draft guidelines relate to:

* the specification of any sustainability-related objectives a product is compatible with;

* the practice of identifying a target market per cluster of products instead of per individual product (“clustering approach”);

* the determination of a compatible distribution strategy where a distributor considers that a more complex product can be distributed under non-advised sales;

* the periodic review of products, including the application of the proportionality principle.

The Consultation Paper also includes good practices identified in the 2021 CSA to complement the existing guidelines, as well as an additional case study. ESMA believes that these practical examples will help firms comply with the relevant product governance requirements.

The product governance requirements introduced by MiFID II have proved to be one of the most important elements of the MiFID II investor protection framework, aiming at ensuring that firms act in their clients’ best interests during all stages of the investment product’s life cycle and preventing mis-selling. As part of the product governance requirements, a target market of end clients must be identified and periodically reviewed for each product, as well as a distribution strategy that must be consistent with the identified target market.

Next Steps

The consultation closes on 7 October 2022. ESMA will consider the feedback it receives to the consultation in Q4 2022 and expects to publish a final report in Q1 2023.

Further information:

Solveig Kleiveland

Senior Communications Officer

Tel: +33 (0)1 58 36 64

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