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## **Assessing appropriateness and execution only in MiFID II: the AMF applies the ESMA guidelines**

The Autorité des Marchés Financiers (AMF) has published a Position DOC-2022-03 to incorporate the guidelines of the European Securities and Markets Authority (ESMA) on the appropriateness and execution-only requirements of Directive 2014/65/EU (MiFID II). This will cancel its policy on collecting know-your-client information at the date on which these guidelines come into force.

### **Context**

For the provision of a service other than an investment advisory service or portfolio management for third parties, the investment services provider collects information from their client to determine whether the service or financial instrument is appropriate for them. On certain conditions, particularly when the service is provided at the initiative of the client and concerns non-complex financial instruments, these requirements do not apply; this is known as execution only.

### **A Position which incorporates the ESMA guidelines**

The AMF has incorporated the ESMA guidelines on the MiFID II appropriateness and execution-only requirements in a new Position DOC-2022-03.

These guidelines are designed to clarify the application of these requirements and aim to promote greater convergence in their interpretation and supervision, emphasising a number of important issues. They will accordingly be able to reinforce investor protection.

The thirteen ESMA guidelines, which apply as of 12 October 2022, provide clarifications regarding the following aspects:

- Information provided to clients concerning the purpose of the appropriateness assessment;
- The arrangements necessary to understand clients;
- The extent of information to be collected from clients (proportionality);
- The reliability of client information;
- Up-to-date client information;
- Client information for legal entities or groups;
- The arrangements necessary to understand investment products;
- The arrangements necessary to ensure a consistent appropriateness assessment;
- The effectiveness of warnings;
- The qualifications of firms' staff;
- Record-keeping;
- Determining situations where the appropriateness assessment is required;
- Controls.

The AMF applies these guidelines to:

- investment firms and credit institutions when they provide non-advised services, defined in the guidelines as investment services other than investment advice and portfolio management; and
- asset management companies which provide a service of reception and transmission of orders for third parties or which receive and handle orders for the subscription or

redemption of units or shares of UCITS and AIFs marketed in France under the conditions of Instruction DOC-2008-04.

## Cancellation of the national policy

The ESMA guidelines on the MiFID II appropriateness and execution-only requirements cover the aspects dealt with in AMF Position DOC-2013-02 on collecting know-your-client information and in Position-Recommendation DOC-2017-08 supplementing Position DOC-2013-02 when the collection of information entails the use of digital systems.

As a consequence, the AMF will cancel these two policy documents when the ESMA guidelines come into force, i.e. on 12 October 2022.


### Read more

AMF Position DOC-2022-03: Exigences de caractère approprié et d'exécution simple de la directive MIFID II (in French only)

AMF Position DOC-2013-02: Collecting 'know-your-client' information (in french only)

AMF Position - Recommendation DOC-2017-08: Position/Recommendation supplementing Position 2013-02 on collecting know-your-client information

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