



GUIDELINES ON MIFID II PRODUCT GOVERNANCE REQUIREMENTS

Reference texts: Articles L. 533-24 and L. 533-24-1 of the Monetary and Financial Code and Articles 313-1 and following of the Autorité des Marchés Financiers' General Regulation

The AMF applies all the guidelines issued by the European Securities and Markets Authority (ESMA) on product governance requirements under MiFID II (ESMA35-43-3448¹).

These guidelines aim to promote greater convergence in the implementation and application of the provisions provided for in Articles 16 (3), and 24 (2) of the MIFID II, as specified in Articles 9 and 10 of the Delegated Directive 2017/593 (EU) of the Commission (MiFID II Delegated Directive), transposed into national law by Article L. 533-24 and L. 533-24-1 of the Monetary and Financial Code and Articles 313-1 and following of the Autorité des Marchés Financiers' General Regulation.

They detail the obligations of manufacturers and distributors as defined in point (15) of Article 4 (1) of Directive 2014/65/UE (directive MiFID II), particularly with regard to the categories to be considered in defining a target market and its coordination with the distribution strategy. They apply in a way that is appropriate and proportionate, taking into account the nature of the product, the investment service and the target market of the product. The products concerned are financial instruments as defined in point (15) of Article 4 (1) of MIFID II and structured deposits as defined in point (43) of Article 4 (1) of the same directive, it being understood that the verification of compliance with provisions applicable to the governance of structured deposits falls under the authority of the ACPR (Autorité de Contrôle Prudentiel et de Résolution).

It should be noted that the AMF intends to apply paragraph 54 of these Guidelines with the following interpretative clarification:

" It is therefore expected that when distributors define their product assortment, they pay particular attention to situations where they might not be able to conduct a thorough target market assessment by virtue of the type of services they provide. In particular, where distributors only carry out execution services with the assessment of appropriateness (for example through a brokerage platform), they should consider that they will usually be able to conduct an assessment of the actual target market which is limited to the sole categories of **(i) clients type (see paragraph 19(a)) and (ii) clients' knowledge and experience (see paragraph 19(b))**; where they only conduct execution services under the execution-only regime, not even the assessment of clients' knowledge and experience will usually be possible. In this respect, firms should pay particular attention to the distribution strategy suggested by the manufacturer (see paragraph 33, 59 to 61)."

¹ Published on 3 August 2023.

Scope of the position

The provisions of this position apply to:

- investment services providers, other than portfolio management companies, that manufacture financial instruments for sale to clients ("producer" rules); and/or
- all investment services providers who offer, market or recommend financial instruments ("distributor" rules).

These guidelines are available in the 'Annexes and Links' section:

- In French: Orientations sur les exigences en matière de gouvernance des produits au titre de la directive MiFID II
- In English: Guidelines on MiFID II product governance requirements