ESMA - Reply to CP on suitability requirements

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Assogestion, the Italian Investment Management Association, welcomes the opportunity to respond to ESMA's Consultation Paper on Guidelines on certain aspects of the MiFID II suitability requirements. Our members are directly concerned by the MiFID II suitability rule since they can be licensed to provide financial advice ancl portfolio management under Directive 2009/65/EC or Directive 2011/61/EU, ancl they are also indirectly affected since, at least in Italy, their funds are usually sold by financial intermediaries that offer investment advice.

First of all, we would Iike to express our appreciation for the work carried out by ESMA: the choice of introducing new guidelines on the suitability requirements is highly sensible ancl it would foster convergence across Europe in this part of the conduct of business rules.

We believe that the provisions of the proposed guidelines are consistent with Level 1 and Level 2 legislation ancl we mostly agree with them. Nevertheless, we would Iike to draw ESMA's attention to the following aspects:

(i) the interaction (and the potential overlap) between the product governance provisions (under article 24, para. 2 of MIFID II ancl the relevant implementing measures) and the suitability requirements [under article 54 (9) of the (EU) Delegated Regulation 2017/565 ancl guidelines 7, 8 and 9]. In this context, while appreciating the initial attempts made by ESMA within the proposed guidelines, we would Iike to ask the Authority to make clear which are the additional measures (compared to those required by the product governance provisions) that advisers and portfolio managers have to adopt;

(ii) guidelines 10 on costs ancl benefits analysis should better reflect the nature of the portfolio management service. As better detailed below, the discretion of the investment manager — who operates in accordance with the mandate received by the investor to whom he is bound by fiduciary duties — deserves to be better taken into account and reconciled with the effective needs of investors' protection.

Finally, we eXpress our support to the ESMA's approach in regulating the suitability assessment in the conteXt of automated tools: we appreciate the analysis of the specific issues raised by such tools as well as the proposed measures.

Whilst the consultation paper covers several topics, our reply will be only focused on those issues that are ofthe utmost importance to our members, therefore hereinafter we will answer only some questions included in the Consultation Paper.

Leggi tutto il documento [2]

Risposta al documento di consultazione recante "Guidelines on certain aspects of the MiFID II suitability requirements"
