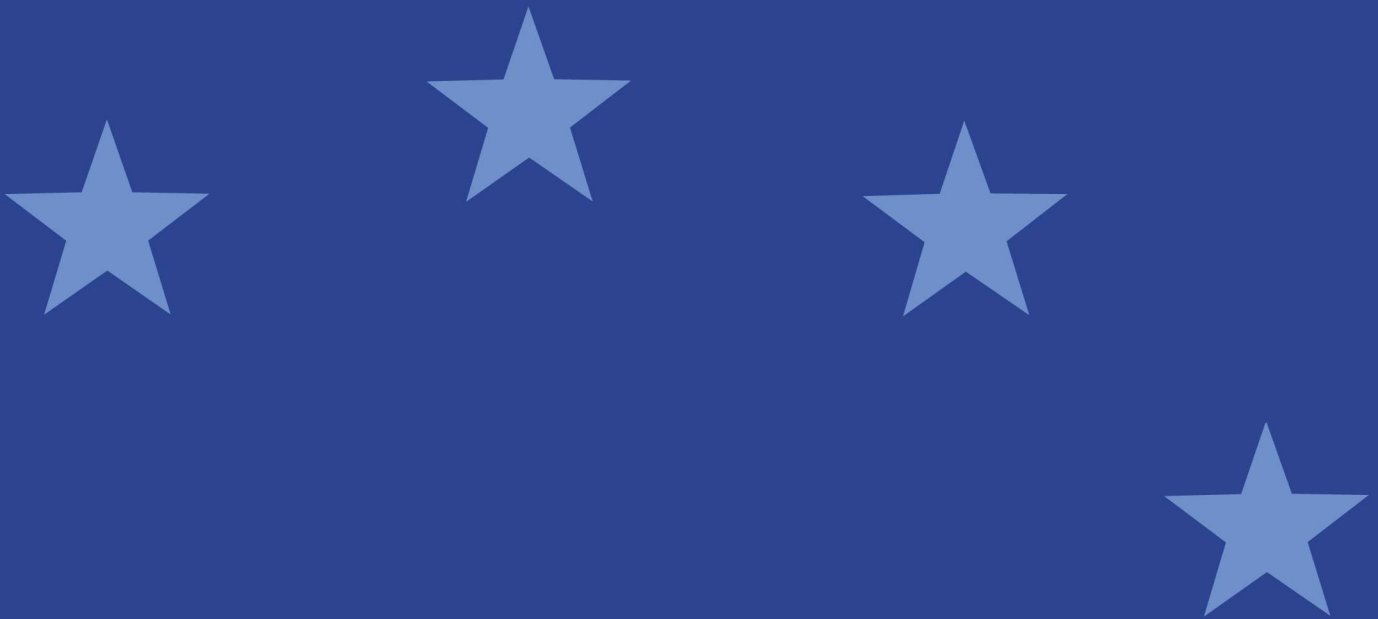




European Securities and
Markets Authority

MiFID II Supervisory briefing

Suitability





European Securities and
Markets Authority

ESMA REGULAR USE

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1 Introduction

1.1 Overview

1. ESMA is required to play an active role in building a common supervisory culture by promoting common supervisory approaches and practices.
2. On 18 December 2012, ESMA published a supervisory briefing in relation to suitability to provide guidance to NCAs in relation to the MiFID I suitability rules. This updated version of ESMA's supervisory briefing on suitability takes into account the new version of ESMA's guidelines on suitability published on 28 May 2018. ESMA's 2012 supervisory briefing in relation to suitability will consequently be retired as of the date of entry into application of the new ESMA guidelines on suitability.
3. This supervisory briefing has been designed for supervisors as an accessible introduction to Directive 2014/65/EU¹ (MiFID II) suitability rules, and as a useful starting point when deciding on areas of supervisory focus. It summarises the key elements of the rules and explains the associated objectives and outcomes. It also includes indicative questions that supervisors could ask themselves, or a firm, when assessing firms' approaches to the application of the MiFID II rules.
4. The content of this briefing is not exhaustive, does not constitute new policy, and does not promote any particular way of supervising the rules. It has been designed to be used in the way that best fits with supervisors' methodologies (whether distributing the briefings internally, or passing them to external bodies, such as auditors, for example).

1.2 Scope

5. This supervisory briefing is aimed at competent authorities (as defined in MiFID II). It is also meant to give market participants indications of compliant implementation of the MiFID II suitability provisions.
6. It applies in relation to the application of the following MiFID II provisions:
 - Articles 25(2) and (6) of MiFID II.
 - Articles 54 and 55 of the MiFID II Delegated Regulation².

¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.06.2014, p. 349).

² Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

1.3 Status of this document

7. The supervisory briefing is issued under Article 29(2) of the ESMA Regulation which enables ESMA to develop new practical instruments and convergence tools such as supervisory briefings. The purpose of these tools is to promote common supervisory approaches and practices. The content of this supervisory briefing is not subject to any 'comply or explain' mechanism for NCAs and is non-binding.³

1.4 Purpose

8. MiFID II and the MiFID II Delegated Regulation place various requirements on firms when they provide investment advice or discretionary portfolio management services that do not apply when providing other investment services. Notably, these include requirements to ensure that (when providing advice) any personal recommendations made or (when providing discretionary portfolio management services) any discretionary investment decisions taken on behalf of clients are suitable for each client.
9. The MiFID II suitability rules give firms a certain degree of flexibility in complying with the duty to obtain the necessary information about the client's circumstances on the one hand, and using this information in making recommendations or taking investment decisions on the other hand. In most circumstances, supervisors will have to assess the adequacy of a firm's arrangements on a case-by-case basis, having regard to the proportionality principle and a firm's operational framework.
10. This supervisory briefing is designed to help supervisors make these judgements, and is structured around the following elements:
 - determining situations where the suitability assessment is required;
 - information to clients about the purpose of the suitability assessment;
 - obtaining information from clients;
 - arrangements necessary to understand investment products;
 - arrangements necessary to understand the suitability of an investment;
 - suitability report;
 - qualifications of firm staff; and
 - record keeping.

³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC.

11. Each element refers to the relevant legislation and other guidance available as well as provides examples of the sort of questions that supervisors could ask to test whether the outcomes of the suitability rules are being met by firms.
12. In this supervisory briefing “robo-advice” means the provision of investment advice or portfolio management services (in whole or in part) through an automated or semi-automated system used as a client-facing tool. However, for the avoidance of doubt, the use of electronic automated or semi-automated systems as professional-facing tools are also within the scope of this supervisory briefing.

2 Supervisory briefing

2.1 Determining situations where the suitability assessment is required

13. In accordance with Article 25(2) of MiFID II, when providing investment advice or discretionary portfolio management services, firms must ensure that the specific transaction to be recommended, or entered into in the course of providing a discretionary portfolio management service, is suitable for the client in question.
14. Relevant legislation: Article 25(2) of MiFID II.
15. Questions
 - How do the firm's arrangements and procedures guide, track and record the interaction between staff and clients, having regard to the distinction between 'advised' and 'non-advised' services?
 - What safeguards are in place to avoid any personal recommendation being made in situations where a suitability assessment is not envisaged?
 - What arrangements and procedures has the firm set up to ensure that the suitability assessment covers all recommendations (whether it is, for example, a recommendation to buy, hold or sell an instrument, or not to do so) and is not limited to recommendations to buy financial instruments?
 - Where a suitability assessment is not envisaged, what kind of internal systems and controls are in place in order to ensure that the services given do not amount to advice?
 - What kind of safeguards are in place in order to ensure that the use of an electronic system does not hinder the firm's capacity to detect where a suitability assessment should be carried out?

2.2 Information to clients about the purpose of the suitability assessment

16. In accordance with Article 54(1) of the MiFID II Delegated Regulation, investment firms shall not create any ambiguity or confusion about their responsibilities in the process when assessing the suitability of investment services or financial instruments and shall inform their clients or potential clients, clearly and simply, that the reason for assessing suitability is to enable the firm to act in the client's best interest.
17. Relevant legislation: Article 24(1), 24(4) and 24(5) of MiFID II, Article 54(1) of the MiFID II Delegated Regulation.

18. Relevant Guideline: General Guideline 1.

19. Questions

- Does the information given to clients on investment advice and portfolio management services include information about the suitability assessment?
- How does the information given to clients about the suitability assessment encourage them to provide accurate and sufficient information that will allow the firm to carry the suitability assessment adequately?
 - Does the information given to clients about the suitability assessment explain that, without accurate and sufficient information about the client's knowledge, experience, financial situation and investment objectives, the firm is not able to provide investment advice or portfolio management services or may recommend/invest on behalf of the client in unsuitable products?
 - For instance, is the firm giving examples on how missing or inaccurate information may affect the firm's ability to perform the suitability assessment and therefore to provide investment advice and portfolio management services?
 - If not, how does the information given to clients about the suitability assessment highlight and help clients to understand the importance of providing complete and accurate information to enable the firm to recommend suitable products and services to the clients?
- With respect to robo-advice, does the firm provide its clients with the additional information prescribed under paragraph 20 of General Guideline 1 of the suitability guidelines?
- How do the firm's policies and procedures ensure that the information about the suitability assessment was provided to the client? And that it is effective?
 - With respect to robo-advice, has the firm adapted the means by which it is providing the required information to ensure that the information is provided to the client and that it is effective, despite the lack of human interaction? For example, is it using design features (such as pop-up boxes), interactive text or other means?

2.3 Obtaining information from clients

20. In accordance with Article 54 of the MiFID II Delegated Regulation, when providing investment advice or discretionary portfolio management services, firms must obtain the necessary information in order to understand the essential facts about the client so that they can assess whether the specific transaction to be recommended, or entered into

during the course of providing a discretionary portfolio management service, is suitable for the client in question.

21. Relevant legislation: Articles 25(1) and 25(2) of MiFID II, Articles 54(2) to 54(8) and Article 55 of the MiFID II Delegated Regulation.
22. Other: General Guidelines 2 to 6 and 11 as well as Q&A 7.
23. Questions

General

- What arrangements and procedures has the firm set up to ensure that relevant and necessary information about essential client facts is obtained?
- What mechanism is used to obtain information that give due consideration to all relevant and necessary facts about the client? In particular, how are relevant facts regarding investment objectives (including holding period, risk taking preferences, risk profile and purposes of the investment), financial situation (including source and extent of regular income, assets and financial commitments) and knowledge and experience (including the ability to understand the relevant financial instrument and in particular the risk to be taken) assessed and used to determine suitability?
- Has the firm established some general client profiles with reference to the three relevant dimensions (i.e. investment objectives, financial situation, experience and knowledge)? If so, how do the arrangements and procedures of the firm lead to the assessment of each client within the various profiles established? How do these general categories continue to satisfy the need to take into account a client's particular circumstances?
- If the firm uses questionnaires (including in digital format) to collect client information, are they designed in a clear, exhaustive and comprehensible way (using layman's terms, where possible and appropriate) avoiding misleading, confusing, imprecise or excessively technical language?
 - Does the questionnaire make clear that a lack of answer to certain questions or to a certain number of questions may prevent the firm from providing investment advice or portfolio management services? Or that providing inaccurate, imprecise or incomplete information may cause the firm to recommend/invest on behalf of the client in unsuitable products? How?
 - In relation to the collection of information on the client's financial situation, does the questionnaire offer the possibility not to reply? Does the questionnaire explain why such information is needed and how the client's overall financial situation may be relevant to the service provided? How? When the firm requests information on the client's investments held with

other firms, does the firm specifically explain why such information is needed to recommend a suitable product?

- If the firm uses questionnaires (including in digital format) to collect client information, are they designed to gather as much relevant information as possible and in an accurate manner?
 - For instance, is the questionnaire presented as a battery of questions?
 - Where a questionnaire is not completed in a face-to-face meeting, is some human interaction (such as remote interaction via email or mobile phone) available to the client when responding to the questionnaire in case the client needs clarity or is seeking further information?
- How does the firm appraise the client's understanding of basic financial notions such as investment risk (including concentration risk) and the relationship between risk and return on investments?
 - To this end, is the firm using indicative and comprehensible examples of risk-return trade off and testing the client's response to such scenarios?
- How are the client's risk-taking preferences (willingness to take risks, risk preparedness, placing horizon) taken into account by the firm when assessing the client's risk tolerance? How does the firm check for any inconsistencies between the two? For example, is the firm using graphs, specific percentages or concrete figures when asking the client how he would react when the value of his portfolio decreases and is it checking the client's answers against those relating to its risk-taking preferences?

Proportionality

- How does the firm assess the extent of the "necessary" information that should be collected?
 - Is the firm using different questions or additional questionnaires (depending on the features of the investment advice or portfolio management services to be provided, the type and characteristics of the investment products to be considered, the characteristics of the client, its investment objective, etc)? What are the main differences between the different versions? Do they all enable the firm to gather the necessary information?
 - Or would the firm be able to offer more human interaction to the client if it had to collect more extensive or detailed information from the client?
 - For instance, in relation to complex or risky financial products, how does the firm ensure that the client understands the mechanisms that make the

financial instrument complex or risky, whether the client has already traded in such product, for how long, etc. and gives all necessary information?

Reliability

- Are clients asked to make any degree of 'self-assessment' (e.g. in respect of their attitude to risk/knowledge and experience)? Is the self-assessment counterbalanced by objective criteria?
 - Are the tools used by the firm to collect the necessary client information designed to allow the firm to cross-check any self-assessment by the client against objective criteria (e.g. open-ended questions related to the client's understanding of risk-return trade off and diversification, the client's knowledge and experience or financial situation and the client's risk perception)? How is this carried out? For example, is it:
 - a) cross-checked with other criteria;
 - b) verified with objective data or information;
 - c) ex-ante and on a regular basis research or surveys are carried out to assess the effectivity of tools, questionnaires...?
- What steps have been taken by the firm to address inconsistencies in the client's responses? Does the questionnaire itself contain some design features to alert clients when their responses appear inconsistent? Or does the firm carry out an ex-post review of the client's responses? If inconsistencies are identified, how does the firm resolve them?
- What are the firm's arrangements and procedures to make sure that, where insufficient or unclear information is collected from the client, safeguards are triggered to prevent the firm providing investment advice or portfolio management services?

Client information for legal entities or groups

- Does the firm have a policy defining, on an ex ante basis, how to conduct the suitability assessment in relation to legal entities, groups of two or more natural persons and one or more natural persons represented by another natural person?
 - Does such policy define the procedure and criteria to be followed in order to comply with the MiFID II suitability requirements?
 - Does the firm inform, on an ex ante basis, its clients that are legal persons, groups of two or more natural persons or one or more natural persons represented by another natural person, who will be subject to the suitability assessment, how it will be done in practice and the possible impact it could have for the relevant client(s), in accordance with the firm's policy?

Updating client information

- What are the arrangements for keeping the client profiles updated? Are these arrangements reasonable?
 - What procedures has the firm put in place to encourage clients to update the information originally provided when significant changes occur?
 - What criteria are used to determine the frequency of review of client information (risk profile of the client, certain events such as retirement, marriage, birth of a child, etc)?
 - What arrangements and procedures has the firm set up to mitigate the risk of inducing the client to update his own profile so as to make appear as suitable a certain investment product that would otherwise be unsuitable? Is the firm informing the client when additional information results in a change of his profile? For example, does the firm adopt procedures to verify, before or after transactions are made, whether a client's profile has been updated too frequently or only after a short period from last modification?
- Under what circumstances might the firm amend the client profile? Does this require the agreement of the client? Has the risk of unjustified client profile changes been considered (for example, to avoid the situation where the sales force may have an interest in recommending products which do not match the client's profile); and how is it managed?
- What arrangements and procedures has the firm set up to inform the client when additional information provided results in a change of the client's profile?
- What kind of internal systems and controls are in place to ensure that the client profile reflects all relevant facts about the client? Are these systems and controls reasonable?
- How does the firm ensure that clients update their client information periodically? Does the investment firm use multiple means to engage the client (pop up after login if robo-advice, e-mail, letter, phone, etc.)?
- What happens when clients do not update their client information? What actions are considered and when are such actions triggered?

2.4 Arrangements necessary to understand investment products

24. In accordance with Article 54(9) of the MiFID II Delegated Regulation, investment firms shall have, and be able to demonstrate, adequate policies and procedures in place to ensure that they understand the nature, features, including costs and risks of investment services and financial instruments selected for their clients and that they assess, while

taking into account cost and complexity, whether equivalent investment services or financial instruments can meet their client's profile.

25. Relevant legislation: Articles 16(2) and 25(2) of MiFID II, Article 54(9) of the MiFID II Delegated Regulation.

26. Relevant Guideline: General Guideline 7.

27. Questions

- Are the procedures used capable of assessing all relevant facts about the financial instrument?
 - In particular, are features regarding complexity, possible returns, risk, prospective financial commitment for the client and liquidity of the financial instrument considered, where relevant?
 - Has the firm taken into account the different characteristics and nature of the products considered (such as the complexity of the product) when setting up the procedures to be followed to understand the investment products?
 - Is the firm's assessment of investment products also taking into account how products could behave over the lifetime and course of the product?
 - Is the firm's assessment of investment products also taking into account how certain products could behave in certain circumstances (e.g. convertible bonds or other debt instruments subject to the Bank Recovery and Resolution Directive⁴ which may, for example, change their nature into shares)?
 - How does the firm ensure that the liquidity risk identified is not balanced out with other risk indicators (such as credit risk, market risk)? Is the liquidity risk specifically linked to the client's willingness to hold the investment for a certain length of time?
- How is the firm's analysis conducted for the purposes of product governance obligations taken into account in this process?
- Has the firm established some general categories within different kinds of financial instruments?

⁴ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012 (OJ L 173, 12.6.2014, p. 190-348).

- If this is the case, how do the arrangements and procedures of the firm lead to the classification of each financial instrument within the various established categories?
- How do the assigned categories track relevant features of the financial instrument?
- What degree of discretion is left to relevant staff when assessing financial instruments?
 - Is this degree of discretion reasonable? Has the risk of an unjustified assessment been considered (for example, where there is an interest to consider a given financial instrument as suitable for as many clients as possible to favour its marketing)?
- What arrangements are used to keep the evaluation of financial instruments updated?
- What systems and controls are in place to ensure the understanding of all relevant financial instruments? Are these systems and controls reasonable?

2.5 Arrangements necessary to ensure the suitability of an investment

28. In accordance with Article 25(2) of MiFID II, when providing investment advice or discretionary portfolio management services, firms must ensure that the specific transaction to be recommended, or entered into in the course of providing a discretionary portfolio management service, is suitable for the client in question.
29. Relevant legislation: Articles 16(2) and 25(2) of MiFID II, Articles 21, 54(9) and 54(11) of the MiFID II Delegated Regulation.
30. Other: General Guideline 8 and Q&A 6.
31. Questions

General

- What approach does the firm adopt when assessing the features of each transaction or portfolio to ensure its suitability for the client in question? Is this approach reasonable?
- How does the firm select suitable investments when providing advice or portfolio management services?
- How do arrangements and procedures ensure that relevant information about financial instruments is matched with the client's circumstances?

- Is the mechanism used capable of covering all relevant financial instruments and transactions that should be considered by the firm when providing advice or portfolio management services to any client?
- How are the risks of financial instruments assessed against the client profile?
- How is the liquidity of financial instruments considered in relation to the client's holding period?
- What are the firm's policy and arrangements in relation to suitability assessments relating to a client's portfolio as a whole? What arrangements and procedures has the firm set up to ensure that its employees or representatives do not propose unsuitable transactions or strategies to clients?
- How does the firm ensure that all relevant client information is taken into consideration when establishing the suitability of an investment?
- What are the firm's measures and procedures to ensure an appropriate degree of diversification within the client's portfolio?
 - Has the firm specifically adopted measures to ensure that concentration with regard to credit risk is effectively identified, controlled and mitigated, especially in the context of self-placement models? In particular, has the firm identified ex ante concentration thresholds? Are these thresholds differentiated depending on the specific features of the investment products considered, as well as on the clients' financial situation (including their ability to bear losses) and their investment objectives (including their risk profile)?
 - Has the firm defined procedures to identify situations where the size of a client's portfolio would be deemed too small to allow for an effective diversification in terms of credit risk? In such instances, does the firm direct those clients towards types of investments that are 'secured' or per se diversified (such as, for example, a diversified investment fund)?
- What happens if a transaction to be recommended on a product distributed by the firm is deemed unsuitable for the client?
- What happens if a transaction that is proposed by a client is deemed unsuitable by the firm, but the client wishes to proceed on a non-advised basis (under MiFID's appropriateness or execution-only regimes)? How does the firm determine if allowing this is in the best interests of the client?
- What degree of discretion is given to relevant staff when assessing suitability? Is this degree of discretion reasonable?

- What kind of internal systems and controls are in place to ensure that only suitable products are recommended to a client or are considered within the portfolio management service? Do these appear reasonable?
- What are the firm's procedures and arrangements to ensure that any automated tools used in the conduct of the suitability assessment (even if the interaction with the client does not occur through automated systems) do not hinder the consistency and reliability of such suitability assessment?
- When providing robo-advice, how does the firm ensure that the tools used are continuously fit for purpose? Does the firm periodically assess the outcome of automated tools used?

Equivalent products

- What are the firm's policy and procedures to ensure that, before the firm decides on the investment product(s) that will be recommended or invested in the portfolio managed on behalf of the client, a thorough assessment of the possible investment alternatives is undertaken, taking into account products' costs and complexity?

Switching investments

- What are the firm's policy and procedures to ensure that, when the firm recommends switching an investment, an analysis of the costs and benefits of the switch is conducted and part of the suitability assessment so that the firm is reasonably able to demonstrate that the expected benefits of switching are greater than the costs?

2.6 Suitability report

32. In accordance with Article 25(6) of MiFID II, when providing investment advice, firms shall, before the transaction is made, provide retail clients with a statement on suitability (the suitability report) in a durable medium specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the retail client. In addition, where a firm provides portfolio management services or has informed its retail clients that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the investment meets the clients' preferences, objectives and other characteristics.
33. Relevant legislation: Article 25(6) of MiFID II, Article 54(12) and (13) of the MiFID II Delegated Regulation.
34. Other: Q&As 1 to 5 and 9.

35. Questions

- What arrangements and procedures has the firm set up to ensure that a suitability report is sent with respect to all recommendations (whether it is, for example, a recommendation to buy, hold or sell an instrument, or not to do so) and is not limited to recommendations to buy financial instruments?
- When and how is the suitability report provided to the client? How is the firm complying with its obligation to provide such report before any transaction is made and in a durable medium?
 - If the suitability report is made available to the client on the firm's website (and the client receives a notification of the availability of such report), how can the client access the report, is the client able to store the report, and for how long?
- What arrangements and procedures has the firm set up to ensure that the suitability report contains all required information (such as an outline of the advice given and how the recommendation provided is suitable for the retail client, including how it meets the client's objectives and personal circumstances with reference to the investment term required, client's knowledge and experience and client's attitude to risk and capacity for loss)?
- Does the suitability report draw client's attention to and include information on whether the recommended investments are likely to require the retail client to seek a periodic review of such investments?
- Where the suitability report cannot be provided to the client before the transaction is made, what arrangements and procedures has the firm set up to ensure that the suitability report is provided immediately after the client is bound by any agreement and that the conditions of paragraph 3 of Article 25(6) of MiFID II are complied with?
- Where the firm provides portfolio management services or has informed the client that a periodic assessment of suitability will be carried out, what arrangements and procedures has the firm set up to ensure that periodic reports with information on how the investment meets the client's preferences, objectives and other characteristics are provided?
 - When providing portfolio management to retail clients, is the firm providing the relevant periodic information on how the investment meets the client's preferences, objectives and other characteristics as part of the periodic report provided under Article 60 of the MiFID II Delegated Regulation and in accordance with the minimum frequency set out in such article? When a new report is issued, is the periodic information updated on the basis of the assessment of the client's portfolio as a whole?

- Where the firm has informed the client that a periodic statement of suitability will be carried out, at what frequency is the firm providing the periodic suitability information required under sub-paragraph 4 of Article 25(6) of MiFID II? How does the firm assess the frequency of the periodic suitability statements that should be provided to a client depending on the risk profile of such client and the type of financial instruments recommended?

2.7 Qualifications of firm staff

36. In accordance with General Guideline 11, firms are expected to ensure that staff involved in material aspects of the suitability process have an adequate level of skills, knowledge and expertise.
37. Relevant legislation: Articles 16(2), 21, 25(1) and 25(9) of MiFID II, Article 21(1)(d) of MiFID II Delegated Regulation.
38. Relevant Guideline: General Guideline 11.
39. Questions
 - In the case of customer-facing staff providing 'non-advised' services, how are they trained on the risk of inadvertently i) giving a personal recommendation on a given financial instrument or ii) giving the client the impression (or let the client think) that a personal recommendation was given?
 - How are relevant staff trained on the suitability assessment? How does the firm ensure that all staff involved in material aspects of the suitability process have an adequate level of skills, knowledge and expertise?
 - How are relevant staff trained on the way to obtain relevant information from the client?
 - How are relevant staff trained on the importance of the collection of information from the client for the suitability assessment?
 - Do relevant staff understand the role they play in the suitability assessment process and do they possess the skills, knowledge and expertise necessary, including sufficient knowledge of the relevant regulatory requirements and procedures, to discharge their responsibilities?
 - Do relevant staff have the skills necessary to be able to assess the needs and objectives of the client?
 - With respect to staff that do not directly face clients but are involved in the suitability assessment in other ways (such as setting up the questionnaires, defining algorithms governing the assessment of suitability, working on the automated tools used in the suitability assessment or the provision of robo-

advice...), what are the firm's procedures and arrangements to train them and to review their training to ensure that they have the necessary skills, knowledge and expertise?

- What are the firm's procedures and arrangements to review its staff training and to ensure that staff involved in material aspects of the suitability process maintain an adequate level of skill, knowledge and expertise to fulfil their obligations in accordance with the relevant suitability requirements applicable to the firm?

2.8 Record-keeping

40. In accordance with General Guideline 12, firms should maintain adequate record-keeping arrangements in relation to all material aspects of the suitability process, including information to and from client, information on recommendations made to the client and investment (or disinvestment) decisions taken on behalf of the client, as well as related suitability reports.
41. Relevant legislation: Articles 16(2), 25(5) and 25(6) of MiFID II, Articles 72, 73, 74 and 75 of the MiFID II Delegated Regulation.
42. Other: General Guideline 12 and Q&A 8.
43. Questions
 - Has the firm established adequate record keeping arrangements in relation to all material aspects of the suitability process, including:
 - the collection of information from the client (including how that information is used and interpreted to define the client's risk profile);
 - information provided to the client in relation to the suitability assessment;
 - information on the investments considered as part of the suitability assessment;
 - why any investment or disinvestment was made and/or what investment advice was given (even when the advice did not result in an actual investment/disinvestment);
 - the suitability report provided to the client?
 - Is the firm keeping records of any changes made to the client's investment profile and types of financial instruments that fit that profile (including the reasons for such changes)?

- Are the record-keeping arrangements established by the firm designed to enable the detection of failures regarding the suitability assessment (such as mis-selling)? Please explain how.
- Are the records kept by the firm with respect to the suitability assessment (including the suitability reports provided to the client) accessible for the relevant persons in the firm (such as the compliance and audit functions, the persons involved in the suitability process...)? And competent authorities?
- Does the firm have adequate processes designed to mitigate any shortcomings or limitations of its record-keeping arrangements?
- Does the firm keep records of the information from the client (including how that information is used and interpreted to define the client's risk profile) , and is the information not overwritten and lost when the information is updated by the client (including with respect to robo-advice)?
- What arrangements and procedures has the firm set up to consider and mitigate the additional risks that could affect the provision of investment services through online/digital tools (such as malicious cyber activity)?
- With respect to robo-advice, does the firm keep records of the version of the automated tools used to provide the investment services to the client? When a defect in an automated tool is detected, is the record keeping such that the firm can establish which clients might not have a suitable investment?