

## Regulatory News Alert

# Sustainability enters into MiFID II Suitability

25 May 2018

### Background

Building on international trends, the COP (21, 22) and the Paris agreement on climate change, the **European Commission is developing initiatives in green and sustainable finance**. On 8 March 2018, the Commission published its Action Plan 'Financing Sustainable Growth', setting out an ambitious and comprehensive strategy on sustainable finance.

The objectives of that Action Plan is to reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth. These ideas were collected by a dedicated HLEG (High-level Expert Group) mandated by the Commission and representing all stakeholders. Only two months after the publication of its initiative, the Commission released several proposals on key texts to incorporate sustainable requirements.

These proposals dated 24 May 2018 are integrating sustainability into the suitability obligations arising from EU Directive 2014/65/EU (MiFID II) and EU Directive 2016/97 (IDD).

### Content of the Regulation

#### MIFID II focus on suitability:

To enable investment firms to recommend the most suitable products to the client, investment firms providing investment advice and portfolio management should **introduce questions in their suitability assessment that would help identify the client's investment objectives, including Environmental, Social and Governance (ESG) preferences**.

The **final recommendations to the client should reflect both the financial objectives and, where relevant, the ESG preferences** of that client.

Investment firms providing investment advice and portfolio management should consider each client's individual ESG preferences on a case-by-case basis.

Moreover, investment firms should disclose, where relevant, **information on the ESG preferences** of each financial product offered to clients before providing investment services.

Investment firms should also **explain to clients how their ESG preferences for each financial instrument is taken into consideration** in the selection process used by those firms to recommend financial products.

All these modifications are foreseen, as expected, under an amendment to the Delegated Regulation 2017/565 on organisational requirements, which in practice



might shortcut the classic regulatory process, leading to an application much earlier—even with an 18-month transition period.

[Link to the proposal](#)

## Insurance

The Directive 2016/97 established an obligation for insurance intermediaries and insurance undertakings distributing insurance-based investment products to act in accordance with the best interests of the customer. The Delegated Regulation (EU) 2017/2359 **required them to define proposals to clients taking into account information on investment objectives of the customer that should include information regarding the risk tolerance, the length of time to hold the investment, and on the risk profile and the purposes of the investment and ESG preferences.**

The proposal, released on 24 May, should enable insurance intermediaries and insurance undertakings to recommend the most suitable products to their customers or potential customers. Those operators should introduce questions in the suitability assessment that help **identify the customer's ESG investment objectives**. Concretely, the final recommendations to the customer **should reflect both the financial and, where relevant, ESG preferences** of that customer.

Similarly to the MIFID II amendment, there will be an 18-month transition period to adapt to the changes.

The changes are also introduced via amendments to a delegated act, which should plead for a faster adoption process.

[Link to the proposal](#)

Deloitte draws your attention to the fact that these are the first concrete steps of actions under a green/sustainable policy. These are the first regulations in a package that also includes a proposal to review the benchmark regulation and the MIFID II SME growth market, and are pioneers for changes to a greener and more sustainable EU.

## How can Deloitte help?

In this rapidly evolving crossroads between regulations, Deloitte can help you stay ahead of the game with our Kaleidoscope Regulatory Watch services, which monitors and analyzes upcoming changes.

Deloitte's advisory specialists and dedicated services will also help you design and implement your business strategy in light of the future evolution of the regulatory framework and market trends.

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