

Regulatory News Alert

Final report on product governance guidelines

16 June 2017

On 2 June 2017, ESMA published the much anticipated “Final report on product governance guidelines,” which closes the process launched in October 2016 with the publication of a consultation paper that has been subject to a lot of comments from the industry.

ESMA took due consideration of the different industry challenges identified by market participants. This final report reflects ESMA’s updated position on product governance, focusing on the target market assessment process.

We have identified the main take-away from the final report, emphasizing the difference between the initial consultation paper and the final guidelines:

Target market categories

- ESMA defines five categories (from six initially, merging clients’ needs and clients’ objectives) into a single category
- ESMA emphasizes the need to facilitate the exchange of information between distributors and manufacturers. Hence, manufacturers should limit the use of additional categories (i.e., other than the five defined categories)

Nature of the product

- ESMA emphasizes that for simpler, more common products, the target market should be identified with less detail, in a more generic way

Definition of target market by distributors

- ESMA details the process for distributors to refine the target market obtained from the manufacturer, emphasizing that this process can be less intensive for simpler or common products
- ESMA defines the process when both manufacturers and distributors define the target market at the same time

Portfolio management, portfolio approach, hedging, and diversification

- ESMA specifies that for diversification or hedging purposes, products can be sold outside the target market, as long as the portfolio remains suitable for the client
- ESMA specifies that suitability assessments may overwrite the target market assessment result
- The distributor is not required to report sales outside the positive target market to the manufacturer if these sales are for diversification and hedging purposes
- Sales of products into the negative target market should always be reported to the manufacturer and disclosed to clients, even for diversification or hedging purposes (and should be of rare occurrence)

Regular review of the target market

- ESMA further specifies how information should be reported by distributors to manufacturers

Guideline for both manufacturers and distributors

- ESMA does not restrict deviation from the target market, although reasons justifying deviations should still be documented and included in the suitability report (if applicable)

Even though the target market assessment process remains a challenge for the industry, ESMA recognized the challenges faced by the industry with regard to the initial guidelines, and it proposes “more” flexibility to reduce the burden of the process as well as to facilitate the exchange of information between stakeholders.

How can Deloitte help?

Deloitte actively monitors MiFID II developments and subsequent publications on an ongoing basis. We carefully analyze all relevant published documents in order to identify any changes and to provide the most updated view to our clients.

We offer to organize an informal workshop in your offices, to answer your questions, and discuss the latest regulatory updates as well as potential operational impacts and remediation scenarios.

Please do not hesitate to contact us, as we would be more than happy to prepare a workshop tailored to your requirements.

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