

MiFID ESG requirements specified

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The MiFID legal framework is evolving in light of sustainability related requirements with respect to the definition of clients' sustainability preferences, on the one hand, and requirements relating to product governance, on the other hand.

The Grand-ducal Regulation of 30 May 2018 on, inter alia, product governance obligations, for MiFID firms was amended to transpose changes on this point introduced in MiFID II Delegated Directive (EU) 2017/593 (see the consolidated version of the Grand-ducal Regulation as modified on 27 July 2022 [here](#)).

As the CSSF underlines in a Communiqué of 24 November 2022, the amended rules regarding product governance apply from 22 November 2022 onwards so entities are now required to take into account sustainability factors when specifying the target markets for the financial instruments and structured deposits they manufacture and/or distribute. ESMA is currently revising its guidelines on the topic.

In addition, as the CSSF recalls in that same Communiqué, since 2 August 2022 providers of investment advisory and discretionary portfolio management services are required to obtain specific information on their clients' preferences regarding sustainability and meet such preferences, while also meeting their other investment objectives and taking into account their financial situation and knowledge and experience. These requirements stem from the amended **MiFID II Delegated Regulation 2017/565** on organisational requirements for investment firms. Covered entities must gather information from customers about their preferences and their level of knowledge about sustainable investments. This concerns new clients as well as existing clients, at the next update of their profile.

ESMA's final report on the revised Guidelines on certain aspects of the MIFID II suitability requirements ("**Guidelines**") were published on 23 September 2022. On the context of and specifications set out in the Guidelines, you can read more [here](#).

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

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