

Appropriateness (for non-advised services) (MiFID provisions)

Chapter 10A

Appropriateness (for non-advised services) (MiFID and insurance-based investment products provisions)



10A.2 Assessing appropriateness: the obligations

10A.2.1 R A *firm* must ask the *client* to provide information regarding that *client's* knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded to enable the *firm* to assess whether the service or product envisaged is appropriate for the *client*.

[Note: article 25(3) of *MIFID*, first paragraph of article 30(2) of the *IDD*]

10A.2.1A G A *firm* carrying on *insurance distribution* is also required to comply with the requirements in ■ COBS 7.3 (additional insurance distribution obligations: demands and needs).

[Note: first paragraph of article 30(2) of the *IDD*]

Bundled packages: MiFID business and insurance-based investment products

10A.2.2 R Where a bundle of services or products is envisaged pursuant to ■ COBS 6.1ZA.16R (for MiFID business) or ■ COBS 6.1ZA.16AR to ■ COBS 6.1ZA.16E (for *insurance-based investment products*), the assessment made pursuant to ■ COBS 10A.2.1R must consider whether the overall bundled package is appropriate.

[Note: article 25(3) of *MiFID*, first paragraph of article 30(2) of the *IDD*]

Assessing a client's knowledge and experience: MiFID business

10A.2.3 UK 56(1) Investment firms, shall determine whether that client has the necessary experience and knowledge in order to understand the risks involved in relation to the product or investment service offered or demanded when assessing whether an investment service as referred to in ■ COBS 10A.1.1R] is appropriate for a client.

An investment firm shall be entitled to assume that a professional client has the necessary experience and knowledge in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the client is classified as a professional client.

[Note: article 56(1) of the *MiFID Org Regulation*]

Assessing a client's knowledge and experience: insurance-based investment product

10A.2.3A **R** Without prejudice to the fact that, in accordance with **■ COBS 7.3.4R**, any *insurance-based investment product* proposed must be consistent with the *client's* demands and needs, a *firm* must determine whether the *client* has the necessary knowledge and experience in order to understand the risks involved in relation to the service or *insurance-based investment product* proposed or demanded when assessing whether an insurance service or insurance-based investment product distributed in accordance with **■ COBS 10A.2.1R** and **■ COBS 10A.2.2R** is appropriate for the *client*.

[Note: article 15 of the *IDD Regulation*]

Information regarding a client's knowledge and experience: MiFID business

10A.2.4 **UK** 55(1) Investment firms shall ensure that the information regarding a client's or potential client's knowledge and experience in the investment field includes the following, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of product or transaction envisaged, including their complexity and the risks involved:

- (a) the types of service, transaction and financial instrument with which the client is familiar;
- (b) the nature, volume, and frequency of the client's transactions in financial instruments and the period over which they have been carried out;
- (c) the level of education, and profession or relevant former profession of the client or potential client.

[Note: article 55(1) of the *MiFID Org Regulation*]

Information regarding a client's knowledge and experience: insurance-based investment products

10A.2.4A **R** (1) For the purposes of **■ COBS 10A.2.1R** and **■ COBS 10A.2.2R** in relation to *insurance-based investment products*, the necessary information to be obtained by a *firm* with regard to the *client's* knowledge and experience in the relevant investment field must include, where relevant, the following, to the extent appropriate to the nature of the *client*, and the nature and type of *insurance-based investment product* or service offered or demanded, including their complexity and the risks involved:

- (a) the types of service, transaction, *insurance-based investment product* or *financial instrument* with which the *client* is familiar;
- (b) the nature, number, value and frequency of the *client's* transactions in *insurance-based investment products* or *financial instruments* and the period over which they have been carried out;
- (c) the level of education, and profession or relevant former profession of the *client*.

(2) Where information required for the purposes of ■ COBS 10A.2.1R and ■ COBS 10A.2.2R has already been obtained for the purposes of ■ COBS 7.3.4R, a *firm* must not request information it already has anew from the *client*.

[Note: article 17(1) and (3) of the *IDD Regulation*]

Discouraging the provision of information: MiFID business

10A.2.5 UK 55(2) An investment firm shall not discourage a client or potential client from providing information required for the purposes of [■ COBS 9A.2.1R and ■ COBS 10A.2.1R].

[Note: article 55(2) of the *MiFID Org Regulation*]

Discouraging the provision of information: insurance-based investment products

10A.2.5A R In relation to an *insurance-based investment product*, a *firm* must not discourage a *client* from providing information required for the purposes of ■ COBS 10A.2.1R and ■ COBS 10A.2.2R.

[Note: article 17(2) of the *IDD Regulation*]

Reliance on information: MiFID business

10A.2.6 UK 55(3) An investment firm shall be entitled to rely on the information provided by its clients or potential clients unless it is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

[Note: article 55(3) of the *MiFID Org Regulation*]

Reliance on information: insurance-based investment products

10A.2.6A R In relation to an *insurance-based investment product*, a *firm* may rely on the information provided by the *client* unless it is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

[Note: article 17(4) of the *IDD Regulation*]

Use of existing information: MiFID business and insurance-based investment products

10A.2.7 G When assessing appropriateness, a *firm* may use information it already has in its possession.

Knowledge and experience: MiFID business and insurance-based investment products

10A.2.8 G Depending on the circumstances, a *firm* may be satisfied that the *client's* knowledge alone is sufficient for him to understand the risks involved in a product or service. Where reasonable, a *firm* may infer knowledge from experience.

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Increasing the client's understanding: MiFID business and insurance-based investment products

10A.2.9 **G** If, before assessing appropriateness, a *firm* seeks to increase the *client's* level of understanding of a service or product by providing information to him, relevant considerations are likely to include the nature and complexity of the information and the *client's* existing level of understanding.

No duty to communicate firm's assessment of knowledge and experience: MiFID business and insurance-based investment products

10A.2.10 **G** If a *firm* is satisfied that the *client* has the necessary experience and knowledge in order to understand the risks involved in relation to the product or service, there is no duty to communicate this to the *client*. If the *firm* does so, it must not do so in a way that amounts to making a *personal recommendation* unless it complies with the *rules* in ■ COBS 9A (MiFID and insurance-based investment products provisions).

Restricted mass market investments

10A.2.11 **G** When determining whether a *client* has the necessary knowledge to understand the risks involved in relation to a *restricted mass market investment*, a *firm* should consider asking the *client* questions that cover, at least, the matters in ■ COBS 10 Annex 1G in relation to *non-readily realisable securities*.

Assessing appropriateness: units in long-term asset funds

10A.2.12 **G** When determining whether a *client* has the necessary knowledge and experience to understand the risks involved in relation to a *unit* in a *long-term asset fund* (see ■ COBS 4.12A (Promotion of restricted mass market investments)), a *firm* should consider asking the *client* questions that cover, at least, the matters in ■ COBS 10 Annex 3G (Assessing appropriateness: units in a long-term asset fund).