



MiFID II - Product governance

MiFID II will introduce extensive product governance requirements on both manufacturers and distributors of investment products. Manufacturers will need to identify, and take reasonable steps to distribute to a target market of end clients. They will need a product approval process and to review periodically the target market and performance of the investment products they offer. Distributors will need sufficient understanding of manufacturers' products and product approval process so as to identify and sell to their own identified target market.

A key challenge will be managing the dual responsibility between manufacturers and distributors and ensuring that arrangements are in place to exchange the necessary information. This will be particularly important where the manufacturer or distributor is a non-MiFID or third country firm. While ESMA set out to make the rules proportionate, there is also still uncertainty around how the rules should be applied in the context of execution-only business.

Article 16 MiFID II

Firms which manufactures instruments for sale to clients shall maintain, operate and review a process of the approval of each financial instrument and significant adaptations of existing instruments before it is marketed/distributed to clients. The product approval process shall specify identified target market of end clients, all relevant risks are assessed and intended distribution strategy. In addition, a firm shall regularly review instruments if offers/markets, taking into account an event that could materially affect the potential risk to the target market, to assess whether the instrument remains consistent with needs of identified market and if the distribution strategy is appropriate. Manufactures shall make available all information to distributors.

Article 24 MiFID II

Firms which manufacture financial instruments for sale to clients shall ensure that those financial instruments are designed to meet the needs of identified target market of end client, strategy for distribution is compatible with

target market and firm takes reasonable steps to ensure that the financial instrument is distributed to identified market. In addition, firms must understand the instruments they offer/recommend, assess the compatibility of the financial instruments with the needs of the client (taking into account identified target market of end client and ensure that when it is offered/recommended only when it is in the best interest of the client). Structured products are complex investment. All information, including marketing materials, must be clear, fair and not misleading.

Product governance obligations for manufacturers

The proposals set out below shall apply to investment firms manufacturing investment products (financial instruments and structured deposits) – i.e. those firms that create, develop, issue and/or design investment products. The investment firm shall maintain procedures and measures to ensure the design of the product complies with the requirements relating to the proper management of conflicts of interest (including remuneration). In particular, when an investment firm develops a new product, it shall be reviewed to ensure that the product design, including the product features, does not adversely affect clients or lead to problems with market integrity by enabling the firm to mitigate and/or dispose of its own risks or exposure to the underlying assets of the product, where the investment firm already holds the underlying assets on own account.

Product governance obligations for distributors

The obligations for distributors shall apply to investment firms when deciding the range of products (financial instruments and structured deposits) issued by itself or other investment firms and services they intend to offer to clients. These proposals also apply to distributors selling investment products issued by entities that do not fall under MiFID scope (e.g. if they distribute bonds issued by a car company). In such circumstances the distributor shall determine the target market for the respective investment product, even if the target market was not defined by the manufacturer.

When deciding the range of investment products and services that will be offered, investment firms shall have in place adequate product governance arrangements to ensure that products and services they intend to offer are compatible with the needs, characteristics, and objectives of an identified target market and that the intended distribution strategy is consistent with identified target market. In this regard, investment firms shall identify and assess appropriately the circumstances and needs of the clients that they intend to focus on, so as to ensure that clients' interests are not compromised as a result of commercial or funding pressures. As part of this process, the firm shall identify any groups of investors for whose needs, characteristics and objectives the product or service is not compatible. Distributors shall use information on their own clients and the information obtained from manufacturers to identify the needs, characteristics and objectives of the group of clients to whom they are going to offer the product or service, as well as define how they are going to distribute it.

Contact

If you would like to discuss any element of MiFID II please do not hesitate to call your usual Grant Thornton contact.

Nimah Meenan

Partner, Financial Services Audit
T +353 (0)1 680 5614
E niamh.meenan@ie.gt.com

Sheila Duignan

Partner, Business Risk Services
T +353 (0)1 680 5620
E sheila.duignan@ie.gt.com

Dwayne Price

Partner, Regulatory Advisory Services
T +353 (0)1 436 6494
E dwayne.price@ie.gt.com

24-26 City Quay, Dublin 2, D02 NY19

Over 1000 people operating from offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.

 [@GrantThorntonIE](https://twitter.com/GrantThorntonIE)

 www.grantthornton.ie

