

MiFID II Product Governance: Guidelines on Target Market Identification

About UK Finance

UK Finance represents nearly 300 of the leading firms providing finance, banking, markets and payments-related services in or from the UK. UK Finance has been created by combining most of the activities of the Asset Based Finance Association, the British Bankers' Association, the Council of Mortgage Lenders, Financial Fraud Action UK, Payments UK and the UK Cards Association.

UK Finance has an important role to play helping negotiators understand how the interests of UK and EU customers, and the financial services they all depend upon, can be best protected.

Our members are large and small, national and regional, domestic and international, corporate and mutual, retail and wholesale, physical and virtual, banks and non-banks. Our members' customers are individuals, corporates, charities, clubs, associations and government bodies, served domestically and cross-border. These customers access a wide range of financial and advisory products and services, essential to their day-to-day activities. The interests of our members' customers are at the heart of our work.

Contact: press@ukfinance.org.uk

www.ukfinance.org.uk

Table of Contents

The content of this document is output from the UK Finance Product Governance working group, and represents the views of the members of that working group. The content is strictly for guidance only, and has not been approved by a regulatory body. It does not represent formal or legal regulatory advice, is not binding, and does not give rise to any enforceable obligations or duties. While anyone is welcome to use the document, it is entirely at their own risk.

Introduction	3
Objectives	4
Recommended use of the guidelines	5
Target maket criteria	6
Annex 1: Target market and distribution strategy matrix	12
Annex 2: Worked product examples	13

1. Introduction

MiFID II introduces a new pan-EU regime for firms' product governance arrangements. The new product cycle could be considered as:



The target market requirements are at the heart of the MiFID II product life cycle, and impose a number of obligations on an investment firm which manufactures (i.e. creates, develops, issues and/or designs) financial instruments for sale to end clients. The MiFID II requirements include the need to:

- Maintain, operate and review a process for the approval of each financial instrument;
- Implement a product approval process which specifies an identified target market of end clients within the relevant category of clients for each financial instrument, ensure that all relevant risks to the identified target market are assessed, and the intended distribution strategy is consistent with the identified target market;
- Regularly review any financial instruments it offers or markets, taking into account any event that could materially affect the potential risk to the identified target market, and whether the intended distribution strategy remains appropriate;
- Make available to distributors all appropriate information on the financial instrument and the product approval process, including the identified target market of the financial instrument.

Distributors should have in place adequate arrangements to obtain information relating to the financial instrument, product approval process, and be able to understand the characteristics and the identified target market of each financial instrument they offer or recommend.

2. Objectives

The guidelines focus on the identification of the target market, and are intended for use by MiFID firms who are manufacturers or distributors of financial instruments, as well as those providing services to clients ("firms"). UK Finance, in consultation with its members (including those representing manufacturers, distributors, or both) and other relevant industry representatives, has developed a standard for the definition of the target market criteria which may be appropriate for manufacturers (and distributors) to consider when identifying the target market for the products they manufacture and/or distribute.

2.1 Development of the guidelines

The guidelines focus on the identification of the target market, and are intended for use by MiFID firms who are manufacturers or distributors of financial instruments, as well as those providing services to clients. UK Finance, in consultation with its members (including those representing manufacturers, distributors, or both) and other relevant industry representatives, has developed a standard for the definition of the target market criteria which may be appropriate for manufacturers (and distributors) to consider when identifying the target market for the products they manufacture and/or distribute.

2.2 Consistency of application

The guidelines are designed to act as a tool so firms can clearly and efficiently define, review

and share target market information in the knowledge that it will be broadly in line with a common industry approach. The target market criteria detailed in these guidelines are intended to be used when identifying the end client's characteristics, needs and objectives. It is of critical important to end clients, regulators, manufacturers and distributors that a consistent understanding of the target market criteria is applied across the industry. These guidelines will facilitate this objective, and support the legislative aim of increasing investor protection.

2.3 Use of examples

The guidelines provide worked examples of 3 products; a listed equity, a structured deposit, and an interest rate swap. These products were selected as to test the guidelines against a range of different variables, and demonstrate that the guidelines can be implemented into a firm's product development cycles. The worked examples are included in the Annex.

2.4 Future review

UK Finance intends to keep these guidelines under review, and to amend them where appropriate (for example, in the light of regulatory developments or member feedback of their application).

³ Firms may decide to use different time frames depending on the characteristics of the type of product.

3. Recommended use of the guidelines

3.1 Non-binding

UK Finance emphasises that these guidelines are not binding, and do not give rise to enforceable obligations or duties.

Firms are encouraged to consider these guidelines in the context of their policies and procedures, and consider how they should be adapted to their particular circumstances. For example, it may be appropriate either to limit or apply additional criteria depending on the product and individual circumstances. Factors which may be considered include jurisdiction(s), distribution channel(s), the precise nature of the products or services, and the nature of the relationship between the parties.

The guidelines present the criteria in tabular format, but firms should decide how to document and present this information.

3.2 Proportionality

MiFID II permits the requirements to be applied in a proportionate manner. The key factor in determining the granularity of the target market

criteria is the complexity of the product i.e. simple, more commonplace products may require less detail than complex, less commomplace products. The concept of proportionality and the resulting level of required granularity has been central to the development of these guidelines.

3.3 Product intervention and local implementation

There are a number of jurisdictions that place restrictions on the sales and/or promotion of products to certain types of investors. For example, at the time of writing, there are bans on the promotion of contingent convertible securities (CoCo bonds) and non-mainstream pooled investments to certain types of retail client in the UK. The determination of the target market should take into account any relevant regulatory intervention relating to a specific product or jurisdiction.

The guidelines are intended to reflect the target market requirements as set out in MiFID II and the MiFID II Delegated Directive, and do not cover the local implementation of MiFID II across Member States.

4. Target market criteria

4.1 Categories to be considered

(i) The type of client to whom the product is targeted

Firms should consider whether the product is likely to be compatible with one or more of the MiFID II

categories of potential end investors.

The identification of a "more protected" category of client type should be intended to imply that "less protected" categories are also compatible with the target market.

Example:

This product might be generally compatible with an end client who has the following MiFID categorisation:

Client type

- Retail
- Professional counterparties
- Eligible counterparties (ECPs)

(ii) Knowledge and experience

It may be appropriate for firms to refer to eligible counterparties as one type of target market without further segmentation, and to assume that to eligible counterparties "by definition" have the necessary knowledge and experience.

However, for the other MiFID II categories (i.e. retail and professional counterparties), firms may consider whether the characteristics of the target market require, based on other considerations,

further specification. For example, firms may wish to consider the level of knowledge and experience of the potential target market (which should be defined on a general basis).

Such an approach supports distributors in the application of their own classification systems for the assessment (where applicable) of suitability and appropriateness based on the financial sophistication and experience of the potential end investor, as well as any local regulatory requirements.

Example:

If the end client type is categorised as retail or professional, the product might be generally compatible with such a client if it has the following knowledge and experience:

Knowledge and Experience

- Low
- Medium
- High

Whereby the following definitions apply:

	Low	 Typically, these investors have one, or more, of the following characteristics: limited ability to understand relevant complicated financial instruments limited or no investment holdings infrequent or no trading/investment activity no financial industry experience, interest, or knowledge
Definition of Knowledge and Experience	Medium	Typically, these investors have one, or more, of the following characteristics: • average ability to understand relevant complicated financial products • a number of investment holdings • fairly frequent trading activity • some financial industry experience and interest
	High	 Typically, these investors have one, or more, of the following characteristics: good ability to understand relevant complicated financial products and transactions large number of diverse investment holdings frequent trading activity, previous exposure to high-risk or complex investments financial industry experience, interest, and knowledge

(iii) Financial situation, with a focus on the ability to bear losses

Firms may use this criterion to consider whether a product is designed to offer protection from potential losses (subject to the credit risk of the issuer or other extraordinary events) and the degree of such protection, or alternatively is

suited for potential end investors with a higher risk appetite, who in turn will accept and be able to bear the risk of losing their investment. For certain products (e.g. hedging), firms could determine that this criterion is replaced with a more suitable one (e.g. tolerance for downside risk).

Example:

ability to bear losses (expressed as a percentage)

- Investors with no tolerance for loss in their investment or initial amount
- Investors who tolerate a moderate loss in their investment or initial amount
- Investors who tolerate a loss of the entire investment or initial amount
- Investors who tolerate losses exceeding their investment or initial amount

(iv) Risk tolerance and compatibility of the risk/ reward profile of the product with the target market

The criteria should assess, on a high level and theoretical basis, the risk profile which the product might be compatible with. As firms are likely to have different risk profiling systems,

there is a danger that if the identification of risk categories are too granular, it will conflict with the distributors' categorisation. The guidelines suggest the use of generic categories "High Risk and Low Risk" and, for products that are Packaged Retail and Insurance-based Investment Products (PRIIPs), to rely on the summary risk indicator (SRI) for such products.

Example:

a focus on the

The investor risk profile is:

- Compatible with High Risk investment (investor is willing to accept the risk of losses up to or exceeding the investment or initial amount)
- Compatible with Low Risk Investment (investor is not willing to accept any loss of the investment or initial amount)
- [For PRIIPs Products] compatible with a PRIIPs SRI [1/2/3/4/5/6/7]

(v) Clients' objectives and needs

The target market assessment requires firms to consider the characteristics of the potential end investors for whom the product is intended. Examples of criteria which may be relevant include:

a. Investment Tenor

Firms may wish to consider whether the product, based on its intended duration, could be compatible with the expectations of potential end investors to remain invested for a set time period. Firms may decide to use different time frames depending on the characteristics of the type of product.

Example:

- Short
- Medium
- Long
- [For products with a specific maturity date] please indicate the maturity date

b. Investment Objective

The criteria should be used in circumstances where the identified "client need" is an "investment". It can be used by firms to assess the main economic objectives which the product seeks to deliver. Firms may determine that multiple economic objectives could be met by a single product.

Example:

Objective

- Capital protection
- Appreciation
- Future income stream

c. Liquidity

Liquidity in this context is the ability of clients to access their investment, and/or to exit the investment early.

Example:

- Requires the possibility to exit the investment early
- Willing to hold the investment until its maturity

d. Additional criteria

Firms may wish to include additional criteria to meet a client's additional investment objectives.

For example, when determining "portfolio diversification", firms should consider whether a product could be compatible with the objective of portfolio diversification if it embeds a diversified investment strategy (for example, a fund or a product linked to a hybrid basket).

Firms may also consider it appropriate to use additional criteria or parameters to define the target market depending on the specific characteristics or the intended distribution of the product. For example, this could include considerations based on local legal or regulatory restrictions with regards to retail distribution of certain product types. Further examples could include considerations around Sharia compliant requests or specific tax treatment.

Example:

Additional

- Investment
- Hedging
- Financing
- Portfolio diversification
- Other specific requirements (e.g. Sharia, green, ethical investment etc)

4.2 Distribution strategy

Firms need to determine whether, based on the characteristics of the product and the potential end investor, the product should be sold to:

- potential end investors who are advised on a managed basis (i.e. investment manager takes the investment decision);
- ii. potential end investors on an advised basis (i.e. end-client takes the investment decision);
- iii. potential end investors who do not require investment advice, and to whom the product can be sold on an "execution-only" basis (i.e. either to all categories of clients, only professionals counterparties, only eligible counterparties, or those with a certain level of knowledge and experience).

The distribution strategy should be based on the definition of client type, and a more relaxed distribution channel should be assumed to be appropriate for "less protected" classes of potential investors.

Distribution channel recommendations should be provided purely for the purpose of guidance, and should be intended to relieve the distributor from their responsibility to assess whether the individual potential end investors should receive investment advice.

Products which are targeted at eligible counterparties or professional counterparties may therefore be linked to a generic distribution channel such as "non-retail clients".

Example:

- Advised
- Non-advised
- Execution only
- Discretionary

4.3 Negative Target Market

Firms should identify any applicable group of clients for whose needs, characteristics and objectives are not compatible with the financial instrument.

Identification should be made with reference to the same (or similar) criteria to those used in the positive target market identification (although it may be appropriate to use less criteria for negative target market purposes).

The negative target market should not be identified as the "negative of the target market". A possible approach is suggested in the combined target market matrix in Annex 1 of this document.

5. Annex 1 – Target market and distribution strategy matrix

Please find below the suggested template for defining the target market criteria, distribution strategy, and the negative target market:

ESMA Requireme	nt _	Target Market Criteria ✓	Negative Target Market (mark where applicable)
Client type		Retail Professional counterparties Eligible counterparties	
Knowledge and e	experience	Low Medium High	
Financial situation, with a focus on the ability to bear losses (tolerance to be expressed as a percentage)		Investors with no tolerance for loss in their investment or initial amount Investors who tolerate a moderate loss in their investment or initial amount Investors who tolerate a loss of the entire investment or initial amount Investors who tolerate losses exceeding their investment or initial amount	
Risk tolerance and compatibility of the risk/reward profile of the product with the target market		Compatible with High Risk investment (investor is willing to accept the risk of losses up to or exceeding the investment or initial amount) Compatible with Low Risk Investment (investor is not willing to accept any loss of the investment or initial amount) [For PRIIPs Products] compatible with a PRIIPs SRI [1/2/3/4/5/6/7]	
Clients' objectives and needs	Investment Tenor	Short Medium Long [For products with a specific maturity date] please indicate the maturity date	
	Investment Objective	Capital protection Appreciation Future income stream	
	Liquidity	Requires the possibility to exit the investment early Willing to hold the investment until its maturity	
	Additional Criteria	Investment Hedging Financing Portfolio diversification Other specific requirements (e.g. Sharia, green, ethical investment etc).	
Distribution Strat	regy	Advised Non-advised Execution only Discretionary	

6. Annex 2 - Worked product examples

Example Product 1: Listed Equity (main market of European exchanges)

The assumption is that the product is a stock listed on the main market of a European exchange.

ESMA Requireme	ent	Target Market Criteria ✓	Negative Target Market (mark where applicable)
Client type		✓ Retail Professional counterparties Eligible counterparties	
Knowledge and experience		✓ Low Medium High	
Financial situation, with a focus on the ability to bear losses (tolerance to be expressed as a percentage)		 Investors with no tolerance for loss in their investment or initial amount Investors who tolerate a moderate loss in their investment or initial amount ✓ Investors who tolerate a loss of the entire investment or initial amount Investors who tolerate losses exceeding their investment or initial amount 	
Risk tolerance and compatibility of the risk/reward profile of the product with the target market		✓ Compatible with High Risk investment (investor is willing to accept the risk of losses up to or exceeding the investment or initial amount) Compatible with Low Risk Investment (investor is not willing to accept any loss of the investment or initial amount) [For PRIIPs Products] compatible with a PRIIPs SRI [1/2/3/4/5/6/7]	
Clients' objectives and needs	Investment Tenor	Short Medium ✓ Long [For products with a specific maturity date] please indicate the maturity date	
	Investment Objective	Capital protection ✓ Appreciation Future income stream	
	Liquidity	Requires the possibility to exit the investment early Willing to hold the investment until its maturity	
	Additional Criteria	✓ Investment ✓ Hedging Financing Portfolio diversification Other specific requirements (e.g. Sharia, green, ethical investment etc).	
Distribution Strategy		Advised Non-advised ✓ Execution only ✓ Discretionary	

The assumption is that the product is a structured deposit designed to return at least the full deposit amount where held to maturity. The amount returned at maturity will include an amount to reflect the upside performance of the underlying reference asset (a basket of 4 commodities) but will not reflect any deduction for a negative performance of the reference asset.

The underlying reference asset is an evenly-weighted basket of 4 commodity indices.

ESMA Requireme	ent	Target Market Criteria ✓	Negative Target Market (mark where applicable)
Client type		Retail Professional counterparties Eligible counterparties	
Knowledge and e	experience	Low ✓ Medium High	
Financial situation, with a focus on the ability to bear losses (tolerance to be expressed as a percentage)		 ✓ Investors with no tolerance for loss in their investment or initial amount Investors who tolerate a moderate loss in their investment or initial amount Investors who tolerate a loss of the entire investment or initial amount Investors who tolerate losses exceeding their investment or initial amount 	
Risk tolerance an of the risk/rewar product with the	d profile of the	Compatible with High Risk investment (investor is willing to accept the risk of losses up to or exceeding the investment or initial amount) Compatible with Low Risk Investment (investor is not willing to accept any loss of the investment or initial amount) ✓ [For PRIIPs Products] compatible with a PRIIPs SRI [1/2/3/4/5/6/7]	
Clients' objectives and needs	Investment Tenor	Short Medium Long ✓ [For products with a specific maturity date] please indicate the maturity date	
	Investment Objective	✓ Capital protection Appreciation ✓ Future income stream	
	Liquidity	Requires the possibility to exit the investment early Willing to hold the investment until its maturity	
	Additional Criteria	✓ Investment Hedging Financing Portfolio diversification Other specific requirements (e.g. Sharia, green, ethical investment etc).	
Distribution Stra	Tegy	Advised Non-advised Execution only Discretionary	

Example Product 3: Interest Rate Swap

The assumption is that the product is a floating 6 month Euribor to fixed rate swap. The terms of products envisage a tenor of 5 years.

The product is unfunded and the coupon period is 6 months.

ESMA Requireme	ent	Target Market Criteria ✓	Negative Target Market (mark where applicable)
Client type		Retail Professional counterparties Eligible counterparties	✓
Knowledge and e	experience	✓ Low Medium High	
Financial situation, with a focus on the ability to bear losses (tolerance to be expressed as a percentage)		 Investors with no tolerance for loss in their investment or initial amount Investors who tolerate a moderate loss in their investment or initial amount ✓ Investors who tolerate a loss of the entire investment or initial amount Investors who tolerate losses exceeding their investment or initial amount 	
Risk tolerance and compatibility of the risk/reward profile of the product with the target market		✓ Compatible with High Risk investment (investor is willing to accept the risk of losses up to or exceeding the investment or initial amount) Compatible with Low Risk Investment (investor is not willing to accept any loss of the investment or initial amount) [For PRIIPs Products] compatible with a PRIIPs SRI [1/2/3/4/5/6/7]	
Clients' objectives and needs	Investment Tenor	Short Medium Long ✓ [For products with a specific maturity date] please indicate the maturity date	
	Investment Objective	✓ Capital protection Appreciation ✓ Future income stream	
	Liquidity	Requires the possibility to exit the investment early Willing to hold the investment until its maturity	
	Additional Criteria	Investment ✓ Hedging Financing Portfolio diversification Other specific requirements (e.g. Sharia, green, ethical investment etc).	
Distribution Strategy		✓ Advised Non-advised ✓ Execution only Discretionary	