



THE CNMV REVIEWS THE IMPLEMENTATION OF THE NEW OBLIGATIONS RELATED TO CLIENTS' SUSTAINABILITY PREFERENCES

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- While companies are asking clients, to greater or lesser extent, about their sustainability preferences, data collection procedures require improvement
- The CNMV brings to the sector's attention that it must complete the process and collect information from all its clients when providing investment advice and portfolio management
- It shall also verify the status of issues raised with entities through a common supervisory action with ESMA in the second half of 2024

The Spanish National Securities Market Commission (CNMV) has conducted a first horizontal supervisory action regarding the compliance with the regulation on **sustainability preferences** by entities providing investment services.

This recent European regulation determines, firstly, that all entities should ask their clients whether they have sustainability preferences (environmental, social, etc.) in their investments. The rule then obliges them to incorporate such preferences when assessing the suitability of the financial products subject of the advice to the client or included in the client's managed portfolio. In other words, these obligations shall influence the advice provided and portfolio management; nonetheless, they do not apply when a product is sold to a client without advice. Moreover, entities should take into account sustainability factors when determining the target market for the financial instruments they design or distribute.

The review has been carried out to verify the procedures applied by entities based on a representative sample of entities providing portfolio management or investment advice services as of mid-2023.

Regarding the **collection of client information**, in general, entities have been found to be asking about clients' sustainability preferences. However, the level of detail of the questions varies considerably among different entities. For example, some entities are only asking whether the client is interested in sustainability, without requesting additional information, and several entities do not collect information on all the aspects established by the regulation or ask in an unclear manner. All of them **have been urged to adjust their procedures**.

Some examples of good practices include:

- Provide illustrative **examples** for each question to facilitate the retail investor's understanding; or

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- Draft an **annex** to the pre-contractual document including clarifications on concepts related to sustainability.

On the **information collected by entities** regarding clients' sustainability preferences, in more than half of them it has been observed **that the percentage of clients from which information was collected is low**. Thus, such entities **have been reminded to complete the process** and request such information from all its clients.

In relation to this, the following best practices have been observed:

- **Encourage clients to reach out to the entity** to provide information related to their sustainability preferences; and
- **Refrain from registering new clients** or give recommendations to existing clients if they have not provided such information.

Additionally, it has been observed that **the percentage of clients indicating existing sustainability preferences is still not high (an average of 23%)**, which would be aligned with the responses from the European industry to ESMA's consultation.

In regard to the **classification of products** to determine their alignment with clients' sustainability preferences, the use of the European ESG Template (EET) developed by investment fund management companies has been found to be widespread. Some entities have been made aware of the need to modify their practices on matters related to the use of a classification based on the differentiation of products according to transparency obligations of the Disclosure Regulation (2019/2088 - SFDR) for funds, such as considering products under Article 6 as eligible for meeting the clients' sustainability preferences or considering all Article 8 products as valid for all three options.

Regarding the **adaptation** of clients' sustainability preferences, entities state that they do not recommend products that do not adjust to such preferences. They also state that, in general, where no existing products are aligned with the client's preferences, the client is given the option to adjust such preferences, moment in which they are informed of the range of products with sustainable features available, complying with the approach set in ESMA's Guidelines.

In addition to communicating to entities the modifications required to properly comply with European regulations and ESMA's Guidelines, the CNMV has informed entities to pay due attention to future criteria on aspects pending clarification by ESMA, which it is expected to be addressed following its recent [call for evidence](#) (CfE). Furthermore, in 2024, the CNMV will participate in the common supervisory action announced by ESMA on clients' sustainability preferences across the EU and will verify the status of the issues reported to entities.

These new obligations, subject of such review, have been in place since 2 August 2022 for the suitability assessment and since 22 November 2022 for product

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governance. Considering that the matter is new and in aims of promoting a homogeneous application in Europe, ESMA published guidelines with practical implementation aspects of the obligations, applicable since 3 October 2023, as well as carrying out follow-up on the matter.