Ancillary Services affected by MiFID II - impact on AIFMs and UCITS management companies
Summary of how MiFID II will apply to EU managers regulated under AIFMD and the UCITS Directive

In the context of asset management activities, certain types of asset management firms conducting certain types of activity fall outside of the scope of EU’s Markets in Financial Instruments Directive II (MiFID II). Firms that have been authorised as Alternative Investment Fund Managers (AIFMs) under the Alternative Investment Fund Managers Directive (AIFMD) fall outside of the scope of MiFID II when carrying out the activity of managing (or marketing) the Alternative Investment Funds (AIFs) for which they act as the AIFM. Similarly, firms that have been authorised as UCITS management companies under the UCITS Directives fall outside of the scope of MiFID II when carrying out the activity of managing (or marketing) the UCITS funds for which they act as the UCITS manager.

AIFMs and UCITS management companies that, in addition to managing/marketing AIFs and UCITS, are authorised (under, respectively, Article 6(4) of the AIFMD or Article 6(3) of the UCITS Directives) to carry on other activities that amount to the provision of MiFID investment services (for example, acting as portfolio manager to individual managed accounts or managing the assets of funds for which they do not act as the AIFM/UCITS manager) do fall within the scope of MiFID II in relation to those additional services.

In summary, the following asset management firms will fall within the scope of MiFID II:

- EU asset managers that are not authorised as AIFMs or UCITS management companies; and
- EU AIFMs and UCITS management companies in respect of portfolio management and investment advisory activities that do not fall within the scope of their management/marketing of the AIFs or UCITS funds for which they act as AIFM/UCITS management company.

We set out in this table a summary of the relevant sections of the MiFID I, and the corresponding provisions now set out in MiFID II that apply to AIFMs or UCITS management companies. In respect of the table below, the summary has been categorised as follows:

<table>
<thead>
<tr>
<th>RED</th>
<th>Wording cited in red illustrates former wording in MiFID I which has now been removed in the corresponding provisions of MiFID II</th>
</tr>
</thead>
<tbody>
<tr>
<td>BLUE</td>
<td>Wording cited in blue illustrates new wording inserted in MiFID II as compared with its corresponding provisions of MiFID I</td>
</tr>
</tbody>
</table>

Simmons & Simmons LLP
April 2015
4. By way of derogation from paragraph 2, Member States may authorise an external AIFM to provide the following services:

(a) management of portfolios of investments, including those owned by pension funds and institutions for occupational retirement provision in accordance with Article 19(1) of Directive 2003/41/EC, in accordance with mandates given by investors on a discretionary, client-by-client basis;

(b) non-core services comprising:
   (i) investment advice;
   (ii) safe-keeping and administration in relation to shares or units of collective investment undertakings;
   (iii) reception and transmission of orders in relation to financial instruments.

3. By way of derogation from paragraph 2, Member States may authorise management companies to provide, in addition to the management of UCITS, the following services: (a) management of portfolios of investments, including those owned by pension funds, in accordance with mandates given by investors on a discretionary, client-by-client basis, where such portfolios include one or more of the instruments listed in Annex I, Section C to Directive 2004/39/EC; and (b) as non-core services:
   (i) investment advice concerning one or more of the instruments listed in Annex I, Section C to Directive 2004/39/EC;
   (ii) safekeeping and administration in relation to units of collective investment undertakings.

Management companies shall not be authorised under this Directive to provide only the services referred to in this paragraph, or to provide non-core services without being authorised for the services referred to in point (a) of the first subparagraph.

6. Article 2(2) and Articles 12, 13 and 19 of Directive 2004/39/EC shall apply to the provision of the services referred to in paragraph 4 of this Article by AIFMs.

4. Article 2(2) and Articles 12, 13 and 19 of Directive 2004/39/EC shall apply to the provision of the services referred to in paragraph 3 of this Article by management companies.

References to Directive 2004/39/EC or to Directive 93/22/EEC shall be construed as references to this Directive or to Regulation (EU) No 600/2014 and shall be read in accordance with the correlation table set out in Annex IV of this Directive.

References to terms defined in, or Articles of, Directive 2004/39/EC or Directive 93/22/EEC shall be construed as references to the equivalent term defined in, or Article of, this Directive.
<table>
<thead>
<tr>
<th>Article 2 Exemptions</th>
<th>Article 2 Exemptions</th>
</tr>
</thead>
</table>

2. The rights conferred by this Directive shall not extend to the provision of services as counterparty in transactions carried out by public bodies dealing with public debt or by members of the European System of Central Banks performing their tasks as provided for by the Treaty and the Statute of the European System of Central Banks and of the European Central Bank or performing equivalent functions under national provisions.

<table>
<thead>
<tr>
<th>Article 12 Initial capital endowment</th>
<th>Article 15 Initial capital endowment</th>
</tr>
</thead>
</table>

Member States shall ensure that the competent authorities do not grant authorisation unless the investment firm has sufficient initial capital in accordance with the requirements of Directive 93/6/EEC having regard to the nature of the investment service or activity in question.

Pending the revision of Directive 93/6/EEC, the investment firms provided for in Article 67 shall be subject to the capital requirements laid down in that Article.

<table>
<thead>
<tr>
<th>Article 13 Organisational requirements</th>
<th>Article 16 Organisational requirements</th>
</tr>
</thead>
</table>

1. The home Member State shall require that investment firms comply with the organisational requirements set out in paragraphs 2 to 8.

Article 13(2) of Directive 2004/39/EC corresponds to Article 16(2) of Directive 2014/65/EU

2. An investment firm shall establish adequate policies and procedures sufficient to ensure compliance of the firm including its managers, employees and tied agents with its obligations under the provisions of this Directive as well as appropriate rules governing personal transactions by such persons.

Article 13(3) of Directive 2004/39/EC corresponds to Article 16(3) of Directive 2014/65/EU

3. An investment firm shall maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest as
An investment firm which manufactures financial instruments for sale to clients shall maintain, operate and review a process for the approval of each financial instrument and significant adaptations of existing financial instruments before it is marketed or distributed to clients.

The product approval process shall specify an identified target market of end clients within the relevant category of clients for each financial instrument and shall ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market.

An investment firm shall also regularly review financial instruments it offers or markets, taking into account any event that could materially affect the potential risk to the identified target market, to assess at least whether the financial instrument remains consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate.

An investment firm which manufactures financial instruments shall make available to any distributor all appropriate information on the financial instrument and the product approval process, including the identified target market of the financial instrument.

Where an investment firm offers or recommends financial instruments which it does not manufacture, it shall have in place adequate arrangements to obtain the information referred to in the fifth subparagraph and to understand the characteristics and identified target market of each financial instrument.

The policies, processes and arrangements referred to in this paragraph shall be without prejudice to all other requirements under this Directive and Regulation (EU) No 600/2014, including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interests, and inducements.

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4. An investment firm shall take reasonable steps to ensure continuity and regularity in the performance of investment services and activities. To this end the investment firm shall employ appropriate and proportionate systems, resources and procedures.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5. An investment firm shall ensure, when relying on a third party for the performance of operational functions which are critical for the provision of continuous and satisfactory service to clients and the performance of investment activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk. Outsourcing of important operational functions may not be undertaken in such a way as to impair materially the quality of its internal control and the ability of the supervisor to monitor the firm’s compliance with all obligations. An investment firm shall have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.</td>
</tr>
</tbody>
</table>

As defined in Article 18 from adversely affecting the interests of its clients.

4. An investment firm shall take reasonable steps to ensure continuity and regularity in the performance of investment services and activities. To this end the investment firm shall employ appropriate and proportionate systems, resources and procedures.

5. An investment firm shall ensure, when relying on a third party for the performance of operational functions which are critical for the provision of continuous and satisfactory service to clients and the performance of investment activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk. Outsourcing of important operational functions may not be undertaken in such a way as to impair materially the quality of its internal control and the ability of the supervisor to monitor the firm’s compliance with all obligations.

An investment firm shall have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.
Without prejudice to the ability of competent authorities to require access to communications in accordance with this Directive and Regulation (EU) No 600/2014, an investment firm shall have sound security mechanisms in place to guarantee the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage maintaining the confidentiality of the data at all times.

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6. An investment firm shall arrange for records to be kept of all services and transactions undertaken by it which shall be sufficient to enable the competent authority to monitor compliance with the requirements under this Directive, and in particular to ascertain that the investment firm has complied with all obligations with respect to clients or potential clients.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>7. An investment firm shall, when holding financial instruments belonging to clients, make adequate arrangements so as to safeguard clients' ownership rights, especially in the event of the investment firm's insolvency, and to prevent the use of a client's instruments on own account except with the client's express consent.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>8. An investment firm shall, when holding financial instruments belonging to clients, make adequate arrangements so as to safeguard the ownership rights of clients, especially in the event of the investment firm's insolvency, and to prevent the use of a client's financial instruments on own account except with the client's express consent.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9. In the case of branches of investment firms, the competent authority of the Member State in which the branch is located shall, without prejudice to the possibility of the competent authority of the home Member State of the investment firm to have direct access to those records, enforce the obligation laid down in paragraph 6 with regard to transactions undertaken by the branch.</td>
<td></td>
</tr>
</tbody>
</table>

| Member States may, in exceptional circumstances, impose requirements on investment firms concerning the safeguarding of client assets additional to the provisions set out in paragraphs 8, 9 and 10 and the respective delegated acts as referred to in paragraph 12. Such requirements must be objectively justified and proportionate so as to address, where investment firms safeguard client assets and client funds, specific risks to investor protection or to market integrity which are of particular importance in the circumstances of the market structure of that Member State. |

| Member States shall notify, without undue delay, the Commission of any requirement which they intend to impose in accordance with this paragraph and at least two months before the date |
appointed for that requirement to come into force. The notification shall include a justification for that requirement. Any such additional requirements shall not restrict or otherwise affect the rights of investment firms under Articles 34 and 35.

The Commission shall within two months of the notification referred to in the third subparagraph provide its opinion on the proportionality of and justification for the additional requirements.

Member States may retain additional requirements provided that they were notified to the Commission in accordance with Article 4 of Directive 2006/73/EC before 2 July 2014 and that the conditions laid down in that Article are met.

The Commission shall communicate to Member States and make public on its website the additional requirements imposed in accordance with this paragraph.


10. In order to take account of technical developments on financial markets and to ensure the uniform application of paragraphs 2 to 9, the Commission shall adopt implementing measures which specify the concrete organisational requirements to be imposed on investment firms performing different investment services and/or activities and ancillary services or combinations thereof. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).

12. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to specify the concrete organisational requirements laid down in paragraphs 2 to 10 of this Article to be imposed on investment firms and on branches of third-country firms authorised in accordance with Article 41 performing different investment services and/or activities and ancillary services or combinations thereof.

### Article 19
Conduct of business obligations when providing investment services to clients

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall require that, when providing investment services and/or, where appropriate, ancillary services to clients, an investment firm act honestly, fairly and professionally in accordance with the best interests of its clients and comply, in particular, with the principles set out in paragraphs 2 to 8.</td>
</tr>
</tbody>
</table>

### Article 24
General principles and information to clients

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2. All information, including marketing communications, addressed by the investment firm to clients or potential clients shall be fair, clear and not misleading. Marketing communications shall be clearly identifiable as such.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Appropriate information shall be provided in a comprehensible form to clients or potential clients about:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Appropriate information shall be provided in good time to clients or potential clients with regard to the investment firm and its services, the financial instruments and proposed investment strategies, execution venues and all costs and related charges. That information shall include the</td>
</tr>
</tbody>
</table>
• the investment firm and its services,
• financial instruments and proposed investment strategies; this should include appropriate guidance on and warnings of the risks associated with investments in those instruments or in respect of particular investment strategies,
• execution venues, and
• costs and associated charges

so that they are reasonably able to understand the nature and risks of the investment service and of the specific type of financial instrument that is being offered and, consequently, to take investment decisions on an informed basis. This information may be provided in a standardised format.

The investment firm must, in good time before it provides investment advice, inform the client:

(a) whether or not the advice is provided on an independent basis;

(b) whether the advice is based on a broad or on a more restricted analysis of different types of financial instruments and, in particular, whether the range is limited to financial instruments issued or provided by entities having close links with the investment firm or any other legal or economic relationships, such as contractual relationships, so close as to pose a risk of impairing the independent basis of the advice provided;

(c) whether the investment firm will provide the client with a periodic assessment of the suitability of the financial instruments recommended to that client;

(d) the information on financial instruments and proposed investment strategies must include appropriate guidance on and warnings of the risks associated with investments in those instruments or in respect of particular investment strategies and whether the financial instrument is intended for retail or professional clients, taking account of the identified target market in accordance with paragraph 2;

(e) the information on all costs and associated charges must include information relating to both investment and ancillary services, including the cost of advice, where relevant, the cost of the financial instrument recommended or marketed to the client and how the client may pay for it, also encompassing any third-party payments.

The information about all costs and charges, including costs and charges in connection with the investment service and the financial instrument, which are not caused by the occurrence of underlying market risk, shall be aggregated to allow the client to understand the overall cost as well as the cumulative effect on return of the investment, and where the client so requests, an itemised breakdown shall be provided. Where applicable, such information shall be provided to the client on a regular basis, at least annually, during the life of the investment.

Article 25
Assessment of suitability and appropriateness and reporting to clients


4. When providing investment advice or portfolio management the investment firm shall obtain the necessary information regarding the client’s or potential client’s knowledge and experience in the investment field relevant to the specific type of product or service, his financial situation and his investment objectives so as to enable the firm to recommend to the client or potential client the investment services and financial instruments that are suitable for him.

2. When providing investment advice or portfolio management the investment firm shall obtain the necessary information regarding the client’s or potential client’s knowledge and experience in the investment field relevant to the specific type of product or service, that person’s financial situation including his ability to bear losses, and his investment objectives including his risk tolerance so as to enable the investment firm to recommend to the client or potential client the investment services and financial instruments that are suitable for him and, in particular, are in accordance with his risk tolerance and ability to bear losses.

Member States shall ensure that where an investment firm provides investment advice recommending a package of services or products bundled pursuant to Article 24(11), the overall

5. Member States shall ensure that investment firms, when providing investment services other than those referred to in paragraph 4, ask the client or potential client to provide information regarding his knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the investment firm to assess whether the investment service or product envisaged is appropriate for the client. Where the investment firm considers, on the basis of the information received under the previous subparagraph, that the product or service is not appropriate to the client or potential client, the investment firm shall warn the client or potential client. This warning may be provided in a standardised format.

In case the investment firm considers, on the basis of the information received under the previous subparagraph, that the product or service is not appropriate to the client or potential client, the investment firm shall warn the client or potential client. This warning may be provided in a standardised format.

In cases where the client or potential client elects not to provide the information referred to under the first subparagraph, or where he provides insufficient information regarding his knowledge and experience, the investment firm shall warn the client or potential client that such a decision will not allow the firm to determine whether the service or product envisaged is appropriate for him. This warning may be provided in a standardised format.


6. Member States shall allow investment firms when providing investment services that only consist of execution and/or the reception and transmission of client orders with or without ancillary services to provide those investment services to their clients without the need to obtain the information or make the determination provided for in paragraph 5 where all the following conditions are met:

- the services referred to in the introductory part relate to shares admitted to trading on a regulated market or in an equivalent third-country market, money market instruments, bonds or other forms of securitised debt (excluding those bonds or securitised debt that embed a derivative), UCITS and other non-complex financial instruments. A third-country market shall be considered as equivalent to a regulated market if it complies with equivalent requirements to those established under Title III. The Commission and ESMA shall publish on their websites a list of those markets that are to be considered as equivalent. That list shall be updated periodically. ESMA shall assist the Commission in the assessment of third-country markets,
- the service is provided at the initiative of the client or potential client,
- the client or potential client has been clearly informed that in the provision of this service the investment firm is not required to assess the suitability of the instrument or service provided or offered and that therefore he does not benefit from the corresponding protection of the relevant conduct of business rules; this warning may be provided in a standardised format,
- the services referred to in the introductory part relate to shares admitted to trading on a regulated market or in an equivalent third-country market, money market instruments, bonds or other forms of securitised debt (excluding those bonds or securitised debt that embed a derivative), UCITS and other non-complex financial instruments. A third-country market shall be considered as equivalent to a regulated market if it complies with equivalent requirements to those established under Title III. The Commission and ESMA shall publish on their websites a list of those markets that are to be considered as equivalent. That list shall be updated periodically. ESMA shall assist the Commission in the assessment of third-country markets,
- the service is provided at the initiative of the client or potential client,
- the client or potential client has been clearly informed that in the provision of this service the investment firm is not required to assess the suitability of the instrument or service provided or offered and that therefore he does not benefit from the corresponding protection of the relevant conduct of business rules; this warning may be provided in a standardised format,

- the services referred to in the introductory part relate to shares admitted to trading on a regulated market or in an equivalent third-country market, money market instruments, bonds or other forms of securitised debt (excluding those bonds or securitised debt that embed a derivative), UCITS and other non-complex financial instruments. A third-country market shall be considered as equivalent to a regulated market if it complies with equivalent requirements to those established under Title III. The Commission and ESMA shall publish on their websites a list of those markets that are to be considered as equivalent. That list shall be updated periodically. ESMA shall assist the Commission in the assessment of third-country markets,
- the service is provided at the initiative of the client or potential client,
- the client or potential client has been clearly informed that in the provision of this service the investment firm is not required to assess the suitability of the instrument or service provided or offered and that therefore he does not benefit from the corresponding protection of the relevant conduct of business rules; this warning may be provided in a standardised format.

3. Member States shall ensure that investment firms, when providing investment services other than those referred to in paragraph 2, ask the client or potential client to provide information regarding that person’s knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the investment firm to assess whether the investment service or product envisaged is appropriate for the client. Where a bundle of services or products is envisaged pursuant to Article 24(11), the assessment shall consider whether the overall bundled package is appropriate.

Where the investment firm considers, on the basis of the information received under the first subparagraph, that the product or service is not appropriate to the client or potential client, the investment firm shall warn the client or potential client. That warning may be provided in a standardised format.

Where clients or potential clients do not provide the information referred to under the first subparagraph, or where they provide insufficient information regarding their knowledge and experience, the investment firm shall warn them that the investment firm is not in a position to determine whether the service or product envisaged is appropriate for them. That warning may be provided in a standardised format.
1. the investment firm complies with its obligations under Article 18.


---

- client to understand the risk of return or the cost of exiting the product before term;
- (vi) other non-complex financial instruments for the purpose of this paragraph.

For the purpose of this point, if the requirements and the procedure laid down under the third and the fourth subparagraphs of Article 4(1) of Directive 2003/71/EC are fulfilled, a third-country market shall be considered to be equivalent to a regulated market.

- (b) the service is provided at the initiative of the client or potential client;
- (c) the client or potential client has been clearly informed that in the provision of that service the investment firm is not required to assess the appropriateness of the financial instrument or service provided or offered and that therefore he does not benefit from the corresponding protection of the relevant conduct of business rules. Such a warning may be provided in a standardised format;
- (d) the investment firm complies with its obligations under Article 23.

---

5. The investment firm shall establish a record that includes the document or documents agreed between the firm and the client that set out the rights and obligations of the parties, and the other terms on which the firm will provide services to the client. The rights and duties of the parties to the contract may be incorporated by reference to other documents or legal texts.

6. The investment firm shall provide the client with adequate reports on the service provided in a durable medium. Those reports shall include periodic communications to clients, taking into account the type and the complexity of financial instruments involved and the nature of the service provided to the client and shall include, where applicable, the costs associated with the transactions and services undertaken on behalf of the client.

When providing investment advice, the investment firm shall, before the transaction is made, provide the client with a statement on suitability in a durable medium specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the retail client.

Where the agreement to buy or sell a financial instrument is concluded using a means of distance communication which prevents the prior delivery of the suitability statement, the investment firm may provide the written statement on suitability in a durable medium immediately after the client is bound by any agreement, provided both the following conditions are met:

- (a) the client has consented to receiving the suitability statement without undue delay after the conclusion of the transaction; and
- (b) the investment firm has given the client the option of delaying the transaction in order to receive the statement on suitability in advance.
Where an investment firm provides portfolio management or has informed the client that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the investment meets the client’s preferences, objectives and other characteristics of the retail client.


9. In cases where an investment service is offered as part of a financial product which is already subject to other provisions of Community legislation or common European standards related to credit institutions and consumer credits with respect to risk assessment of clients and/or information requirements, this service shall not be additionally subject to the obligations set out in this Article.

Article 24(6) Where an investment service is offered as part of a financial product which is already subject to other provisions of Union law relating to credit institutions and consumer credits with respect to information requirements, that service shall not be additionally subject to the obligations set out in paragraphs 3, 4 and 5.

Article 25(7) If a credit agreement relating to residential immovable property, which is subject to the provisions concerning creditworthiness assessment of consumers laid down in Directive 2014/17/EU of the European Parliament and the Council (1), has as a prerequisite the provision to that same consumer of an investment service in relation to mortgage bonds specifically issued to secure the financing of and having identical terms as the credit agreement relating to residential immovable property, in order for the loan to be payable, refinanced or redeemed, that service shall not be subject to the obligations set out in this Article.


10. In order to ensure the necessary protection of investors and the uniform application of paragraphs 1 to 8, the Commission shall adopt implementing measures to ensure that investment firms comply with the principles set out therein when providing investment or ancillary services to their clients. Those implementing measures shall take into account:

(a) the nature of the service(s) offered or provided to the client or potential client, taking into account the type, object, size and frequency of the transactions;

(b) the nature of the financial instruments being offered or considered;

(c) the retail or professional nature of the client or potential clients.

The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).

Article 24(13) The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to ensure that investment firms comply with the principles set out in this Article when providing investment or ancillary services to their clients, including:

(a) the conditions with which the information must comply in order to be fair, clear and not misleading;

(b) the details about content and format of information to clients in relation to client categorisation, investment firms and their services, financial instruments, costs and charges;

(c) the criteria for the assessment of a range of financial instruments available on the market;

(d) the criteria to assess compliance of firms receiving inducements with the obligation to act honestly, fairly and professionally in accordance with the best interest of the client.

In formulating the requirements for information on financial instruments in relation to point b of paragraph 4 information on the structure of the product shall be included, where applicable, taking into account any relevant standardized information required under Union law.

Article 24(14) The delegated acts referred to in paragraph 13 shall take into account:

(a) the nature of the service(s) offered or provided to the client or potential client, taking into account the type, object, size and frequency of the transactions;

(b) the nature and range of products being offered or considered including different types of financial instruments;

(c) the retail or professional nature of the client or potential clients or, in the case of paragraphs 4
Article 25(8) The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to ensure that investment firms comply with the principles set out in paragraphs 2 to 6 of this Article when providing investment or ancillary services to their clients, including information to obtain when assessing the suitability or appropriateness of the services and financial instruments for their clients, criteria to assess non-complex financial instruments for the purposes of point (a)(vi) of paragraph 4 of this Article, the content and the format of records and agreements for the provision of services to clients and of periodic reports to clients on the services provided. Those delegated acts shall take into account:

(a) the nature of the service(s) offered or provided to the client or potential client, having regard to the type, object, size and frequency of the transactions;

(b) the nature of the products being offered or considered, including different types of financial instruments;

(c) the retail or professional nature of the client or potential clients or, in the case of paragraph 6, their classification as eligible counterparties.
Belgium
France Wilmet
Partner
T +32 2 542 09 72
E france.wilmet@simmons-simmons.com

France
Ian Rogers
Partner
T +33 1 53 29 16 22
E ian.rogers@simmons-simmons.com

Germany
Herald Glander
Partner
T +49 69-90 74 54-44
E harold.glander@simmons-simmons.com

Jochen Kindermann
Partner
T +49 69-90 74 54-43
E jochen.kindermann@simmons-simmons.com

The Netherlands
Rezah Stegeman
Partner
T +31 20 722 2333
E rezah.stegeman@simmons-simmons.com

United Kingdom
Mahrrie Webb
Partner
T +44 20 7625 4180
E mahrrie.webb@simmons-simmons.com

Charlotte Stalin
Partner
T +44 20 7625 4180
E charlotte.stalin@simmons-simmons.com

Darren Fox
Partner
T +44 20 7625 4069
E darren.fox@simmons-simmons.com

Italy
Romeo Battigaglia
Partner
T +39 06 8095 5941
E romeo.battigaglia@simmons-simmons.com

Jonathan Melrose
Partner
T +44 20 7625 4514
E jonathan.melrose@simmons-simmons.com

Spain
Alvaro Munoz
Partner
T +34 91 426 2644
E alvaro.munoz@simmons-simmons.com

Penny Miller
Partner
T +44 20 7625 3532
E penny.miller@simmons-simmons.com

Nicholas Colston
Associate
T +44 20 7625 4147
E nicholas.colston@simmons-simmons.com

Key contact biographies can be viewed at simmons-simmons.com.