

Finansinspektionen's Regulatory Code

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Regulations amending Finansinspektionen's regulations (FFFS 2017:2) regarding investment services and activities;

FFFS 2022:16

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decided 21 June 2022.

Finansinspektionen prescribes¹ pursuant to Chapter 6, section 1, points 14–17 and 29 of the Securities Market Ordinance (2007:572) that Chapter 5, sections 5, 6 and 9 and Chapter 7, sections 12, 15 and 18 of Finansinspektionen's regulations (FFFS 2017:2) regarding investment services and activities shall have the following wording.

Chapter 5

Section 5 A securities institution shall, for each individual financial instrument that it produces, specify at a sufficiently detailed level a target group of end clients for whom the financial instrument is intended, with due consideration for the needs, characteristics and objectives of the end clients (target group).

The institution shall also specify the client groups for which the financial instrument is not intended with due consideration for the needs, characteristics and objectives of each client group. When the institution makes this assessment, it shall not take into account the financial instrument's sustainability factors.

When the institution applies the first and second paragraphs, it shall use its knowledge about and experience in the financial instrument in question or similar financial instruments and the financial markets.

If the institution produces a financial instrument jointly with another securities institution or another undertaking as in section 15, only one target group shall be specified.

Section 6 A securities institution shall, when assessing an end client's needs, characteristics and objectives, consider whether the end client is a non-professional client, a professional client or an equivalent counterparty, as well as the end client's

- risk tolerance,
- capacity for bearing losses,

¹ Cf. Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits, in the wording pursuant to Commission Delegated Directive (EU) 2021/1269.

- knowledge and experience, and
- investment targets, and
- any sustainability-related objectives.

Section 9 A securities institution that appoints another party to distribute a financial instrument produced by the institution shall, besides the provisions of Chapter 8, section 14 of the Securities Market Act (2007:528), ensure that information on the financial instrument provided to the distributor contains information on appropriate distribution strategies for the financial instrument.

The securities institution shall present the financial instrument's sustainability factors in a transparent manner and provide the distributor with the information that is relevant for it to be able to take due account of a customer's potential sustainability targets.

The quality of the information shall be such that the party distributing the financial instrument understands it and can properly distribute it.

Chapter 7

Section 12 A securities institution may agree with a client that the latter is to pay for investment analysis that contributes to the investment decisions made by the client or those made by the institution on behalf of the client (analysis fee). The agreement shall specify the analysis fee to be paid by the client, and the frequency of the fee. The analysis fee may not be amended without the client having received clear information about such an amendment. The institution shall deposit the analysis fee that it levies from the client in an analysis account as specified in section 11.

Section 15 A securities institution shall ensure that its analysis budget is based on a reasonable assessment of the institution's need for investment analysis. The board of directors shall ensure that the funds for purchasing investment analyses are disbursed in an appropriate and controlled manner. The aim is for the budget to be managed and used in such a manner that it best benefits the institution's customers.

The institution's controls as in the first paragraph shall comprise the entire verification chain for payouts to the suppliers providing investment analysis, and for how disbursed amounts are determined based on the quality criteria in section 16. The institution shall not use the analysis budget and analysis account to fund internal analysis work.

Section 18 A securities institution that uses an analysis account, when agreeing with a client that the latter shall pay an analysis fee as set out in section 12, shall disclose information about the budgeted amount for investment analysis and the calculated analysis fee for the client. The client shall also receive annual information about the total analysis fee paid.

These regulations shall enter into force on 22 November 2022.

ERIK THEDÉEN

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