



## THE CNMV TO ADOPT THE GUIDELINES ON CERTAIN ASPECTS OF THE MIFID II COMPLIANCE FUNCTION REQUIREMENTS

7 June 2021

On 6 April 2021, the translation of the Guidelines on certain aspects of the MiFID II compliance function requirements (hereinafter, the Guidelines) into all the official languages of the various Member States was published on ESMA's website. As of that moment, each competent authority has a period of two months to confirm whether it intends to comply with the guidelines.

The Guidelines are applicable in relation to Article 16(2) of MiFID II and Article 22 of Commission Delegated Regulation (EU) 2017/565, of 25 April 2016, of MiFID II. They shall enter into force two months after their date of publication on ESMA's website in all EU official languages. The Guidelines on certain aspects of MiFID I compliance function requirements issued under MiFID I shall cease to apply on the same date.

The Guidelines have been issued under Article 16 of Regulation (EU) 1095/2010, of the European Parliament and of the Council, of 24 November, regulating the creation of ESMA. This article, which regulates the procedure for the development of Guidelines, in its paragraph 3 establishes that each competent authority shall have a period of two months from the publication of translated Guidelines to confirm whether it intends to comply with the guidelines or not. The objective of these guidelines is to establish consistent, efficient and effective supervisory practices within the European Union, ensuring the common, uniform and consistent application of certain aspects of the MiFID II compliance function relating to the requirements referred to in section 2.

ESMA expects these Guidelines to promote greater convergence in the interpretation of, and supervisory approaches to, the MiFID II compliance function requirements by focusing on a series of important issues, thereby enhancing the value of existing standards. By helping to ensure that firms comply with uniform regulatory provisions, ESMA anticipates the relevant strengthening of investor protection.

In this regard, the Spanish National Securities Market Commission has notified ESMA of its intention to comply with the guidelines. Therefore, the CNMV shall take into account these Guidelines in its authorisation and supervisory tasks.

The Guidelines apply to competent authorities and to the following financial market participants:

- (i) investment firms when providing investment services or carrying on investment activities or when selling structured deposits or advising clients in relation to them;
- (ii) credit institutions when providing investment services or carrying on investment activities or when selling structured deposits or advising clients in relation to them;

(iii) undertakings for collective investment in transferable securities (UCITS) management companies when providing the services referred to in Article 6(3) of the UCITS Directive, in accordance with Article 6(4) thereof;

(iv) alternative investment fund managers (AIFMs) when providing the services referred to in Article 6(4) of the AIFM Directive, in accordance with Article 6(6) thereof.