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MiFID II Policy

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Legal Reference

- Law of 5 April 1993 on the financial sector (as amended) (“LFS”)
- Directive 2014/65/EU on markets in financial instruments (“MiFID”)
- Commission Delegated Regulation (EU) 2017/565 (“Delegated Regulation”)
- Commission Delegated Directive (EU) 2017/593 (“Delegated Directive”)

Introduction

With the aim of improving investor protection, MiFID II has come into force as of January 3, 2018. Building on the rules already in place, these new rules are designed to take into account developments in the trading environment since the implementation of MiFID I in 2007 and, in light of the financial crisis, to improve the functioning of financial markets by making them more efficient, resilient and transparent.

The applicability of MiFID is limited to certain financial products, such as stocks, bonds, derivatives and units of investment funds but does not apply to deposits, loans or insurance products.

MiFID does not only apply to clients with an advisory or discretionary mandate but also requires Pensum, albeit differing in extent, to apply the obligations contained in the Directive when receiving and transmitting client orders as well as when executing orders on behalf of clients (“Appropriateness test”). Thereby, MiFID aims to ensure that investors are driven to financial products and/or investment services that are the most appropriate, respectively suitable, for the client and to avoid, for instance, investors with a conservative investment profile to invest in high risk products.

For that reason, and depending on the classification of the client as well as the investment service provided, it is necessary to establish a profile of the investor, acquiring information about his/her background, the investment objectives, the financial situation as well as his/her knowledge and experience in the investment field. Where an envisaged transaction does not match the client’s profile, Pensum must warn the client that it is not suitable, respectively not appropriate for him/her. In the latter case, i.e. where the investment service provided is a service other than investment advice or portfolio management, Pensum may execute the transaction provided that the client has declared that he/she is aware that the product or service concerned is not appropriate. Pensum must refrain from executing a transaction where the investment service provided is either investment advice or portfolio management.

1. Governance, roles and responsibilities

The Compliance Function shall review and, to the extent necessary, update the MiFID Policy on a regular basis and at least once per year. All amendments shall be approved by Pensum’s Board of Directors. The Board has the overall responsibility for Pensum's activities and shall approve and lay down in writing the Company’s internal governance strategies and guiding principles as well as ensure that the execution of such activities is carried out in accordance with these strategies and principles. In addition, Pensum's Authorized Management has the operational responsibility to ensure the implementation of the internal governance strategies and guiding principles through internal written policies and procedures and to ensure compliance therewith.

2. The categorization of clients and investor profiles

2.1. Client categorization

MiFID has introduced three different client categories – retail, professional and eligible counterparty - in order to establish different levels of protection for customers.

In practice, customers with a discretionary or advisory mandate will be asked to complete a “Client Investment Profile” (hereafter “CIP”), a questionnaire on the investor’s knowledge and experience in the investment field relevant to the specific type of product or service, his/her financial situation, including the ability to bear losses, and his/her investment objectives including the risk tolerance. Based on this information the account manager will categorize the client accordingly and create a client profile in order to enable the account manager to recommend to the (potential) client investment services and financial services that are suitable for the latter.

For clients with an execution only or brokerage mandate, Pensum is required to assess whether the investment service or product envisaged is appropriate for the client. In that context, the (potential) client will be asked to provide information on his/her knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded.

a) Retail Clients¹

Retail clients include, by default, any natural or legal person that does not meet the criteria for *professional clients* and *eligible counterparties*. This client category enjoys the maximum level of protection.

Subject to an assessment by Pensum, retail investors may request to waive some of the protection afforded and shall be allowed to request a re-classification to *professional investor on request/elective professional investor*.

b) Professional Clients

A professional client is defined as a customer who possesses the experience, knowledge and expertise to make own investment decisions and evaluate risks involved.

The category includes, on the one hand, *professional clients per se*, i.e. those customers that are professional by default and on the other hand, customers who request to be treated as professionals, so-called *professional clients on request/elective professional investor*.

For clients automatically classified as professional, the criteria are:

(1) Entities required to be authorized or regulated to operate in the financial markets:

- Credit institutions;
- Investment companies;
- Other authorized or regulated financial institutions;
- Insurance and reinsurance companies;
- Collective investment schemes and their management companies;
- Pension funds and their management companies;
- Commodity and commodity derivatives dealers;
- Other institutional investors.

(2) Large corporations meeting two of the following criteria:

- Balance sheet: Euro 20 million,
- Annual sales: Euro 40 million,
- Equity: Euro 2 million.

(3) National and regional governments, including public bodies that manage public debt at national or regional level, Central Banks, international and supranational institutions such as the World Bank, the IMF, the ECB, the EIB and other similar international organizations.

(4) Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitization of assets or other financing transactions.

Professional clients on request are customers who may be authorized to waive, at their own request, part of the protection enjoyed by retail investors. Such a classification is only possible if Pensum assessed that the knowledge, experience and competence of the customer gives reasonable assurance, in light of the transactions or services envisaged, that the investor is able to take its own investment decisions and understands the risks involved. A *professional client on request* cannot be presumed to have knowledge and experience of the market comparable to *professional clients per se*.

¹ As of January 3rd, 2018 local public authorities and municipalities are considered retail clients, but may be treated as professionals on request.

MiFID provides criteria to assess compliance with this condition. At least two of the following criteria must be met:

- the customer has made an average of 10 transactions of a significant size per quarter over the previous 4 quarters in the relevant market;
- the value of the portfolio of financial instruments of the customer, defined as including cash deposits and financial instruments exceeds EUR 500,000;
- the client works for at least a year or held for at least one year in the financial sector a professional position which requires knowledge of the transactions or services envisaged.

Professionals on request must notify Pensum in writing about their desire to be treated as professionals in general or for specific services or specific transactions and, on the other hand, declare in writing in a separate document, that he/she is aware of the consequences of the protection waiver. In such a case, Pensum must clearly specify the protections that the client may lose, such as information he will no longer receive automatically and assessment of appropriateness that will no longer be performed.

c) Eligible counterparties

Eligible counterparties are companies authorized to operate directly on financial markets as buyer or seller, i.e. credit institutions and investment firms, except for investment firms operating an MTF in Luxembourg, as well as investment advisors, insurance companies, UCITS and their management companies, pension funds and their management companies, other financial institutions authorized or regulated under Community legislation or national law of a member State, national governments and their corresponding offices including public bodies responsible for the management of the public debt, central banks and supranational organizations. Considered professional in nature, eligible counterparties are excluded from the majority of investor protection requirements for certain investment services unless they request in writing to be treated as a retail or professional client for one or more investment services or transactions, or one or more types of transaction or product. This option is especially important for eligible counterparties being institutions acting on behalf of their clients and therefore being obliged to act in the best interests of their clients.

Only legal persons classified as professional clients per se person may request, in writing, to be considered an eligible counterparty either generally or in respect of one or more investment services or a transaction or type of transaction or product. Pensum shall provide the client with a clear written warning of the consequences of such a request and the client shall declare that they are aware of the consequence of the protection they may lose as a result.

2.2. Investment Profiles

For retail clients, Pensum defines an investor profile. Determination of the profile is carried out on the following basis:

- Knowledge and experience in investment products
- Investment objectives
- Evaluation of the financial situation

Pensum has established five profiles: conservative, defensive, moderate, dynamic and aggressive/offensive with each profile being composed of a specific asset allocation.

The choice of the client profile and its description shall be confirmed by the client in writing. The client may choose another investment profile provided that the Client Investment Profile is updated.

3. Suitability test

For clients with an advisory and discretionary mandate, Pensum must obtain the necessary information regarding the knowledge and experience of the client in relation to the specific type of product or service envisaged, the financial situation and the investment objectives of the client concerned, in order to recommend to him/her the most suitable investment services and financial instruments. Pensum must refrain from carrying out transactions on its own initiative and on behalf of the client that are unnecessary or contrary to the interests of the latter and shall not execute transactions in a frequency or volume that can be considered as being made in the sole interest of Pensum.

Pensum may rely on information provided to it by its (potential) clients unless Pensum knows or should know that information is clearly outdated, inaccurate or incomplete. Pensum may also rely on information provided by third parties instructed to provide investment services or ancillary services to a client on their behalf. In this case, the third party giving the instructions is responsible for the completeness and accuracy of the information provided. Pensum may also rely on information provided by third parties outside of the EU to the extent that these parties are subject to equivalent MiFID requirements regarding suitability. Ultimate responsibility for meeting those requirements shall remain with Pensum.

4. Appropriateness test

When providing brokerage or execution only services, Pensum shall assess whether the investment service or product envisaged is appropriate for the client based on his/her knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded to understand the inherent risks.

The appropriateness test is not required in the following cases:

- The client classified as professional or eligible counterparty; or
- The investment service consists of execution of or reception and transmission of client orders
 - a) In non-complex instruments,
 - b) At the initiative of the client, and
 - c) The client has been clearly informed that in the provision of that service Pensum is not required to assess the appropriateness of the financial instrument or service provided.

In a series of transactions involving the same type of service or product, the institution is not required to conduct an appropriate test for each transaction.

Unlike the "suitability test" which prohibits the recommendation of a product or service unsuitable for client, Pensum may execute the client transaction even if it is not appropriate for the client. Pensum must however warn the client that the product or service in question is considered not to be appropriate for him/her.

Pensum may execute a transaction even if the customer does not provide the information necessary to determine the appropriateness of the product or service after having warned the client thereof.

5. Inducements

Pensum is a non-independent investment advisor and therefore subject to the following rules on third party inducements in accordance with art. 24(9) MiFID:

Inducements (fees from/to third parties, commissions and non-monetary benefits) are allowed if;

- 1) they are designed to enhance the quality of the relevant service to the client, proportional to the level of inducements received; and
- 2) they do not impair compliance with Pensum's duty to act honestly, fairly and professionally in accordance with the best interest of the clients.



The existence, nature and amount of the inducement has to be disclosed to the client before the respective transaction, if possible. If the exact amount cannot be specified, Pensum shall disclose an estimate and the method of calculating that amount.

Recurring inducements are subject to a continuous quality enhancement.

When providing portfolio management services, Pensum is prohibited from providing or receiving any third party inducements other than minor non-monetary benefits provided they are reasonable and proportionate.

However, payments or benefits necessary for the provision of investment services shall be allowed such as custody, foreign exchange commissions and settlement, regulatory fees, legal fees and expenses, which, by their nature, cannot give rise to conflicts with the obligation to act honestly, fairly and professionally in the best interests of clients are allowed.

6. Best execution

The best execution obligation is a best effort obligation (*obligation de moyen*) and not one to produce a particular result (*obligation de résultat*). Pensum must take all sufficient steps to obtain, when executing orders, the best possible result for their clients, taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. Pensum does not have to obtain the best possible result for each individual order. However, Pensum must be in a position to prove to its clients, upon their request, that the orders have been executed in compliance with its Execution Policy which must aim at obtaining, on a consistent basis, the best possible result for the client.

When executing client orders, Pensum shall take into account the following criteria to decide the relative importance of the factors listed in the first paragraph:

- the characteristics of the client including the categorization as a retail client or a professional client;
- the characteristics of the client order;
- the characteristics of the financial instruments that are subject to this order;
- the characteristics of the execution systems to which that order can be directed.

Pensum may refrain from taking these criteria into consideration when specifically instructed by the client to place or transmit an order.

Pensum shall apply the principle of best execution to both retail customers and professionals. The best execution obligation does not apply to the provision of investment services to eligible counterparties. When executing orders on behalf of retail clients, the best possible result shall be determined in terms of the total consideration, representing the price of the financial instrument and the costs relating to the execution, including expenses directly relating to the execution such as execution venue fees, clearing and settlement fees.

Where there is more than one competing venue available for execution, Pensum shall take into account its own commissions and the costs for executing the order on each of the venues.

Pensum will select the execution venues in order to obtain, in most cases, the best possible result when executing client orders. It is therefore not required to consider all venues in respect of every transaction. Pensum will provide to their clients appropriate information on its Execution Policy and obtain the clients consent on it. The information must be provided in a durable support or on a website.

Prior consent of the customer can be implied as long as it has been previously agreed, for example, in the absence of objections of the customer after the time prescribed in the contract and following the provision of information by Pensum. Pensum may also consider that the consent of a customer was

given if the customer places an order after having received adequate information about the Execution Policy.

6.1. Review and monitoring

Pensum is required to monitor the effectiveness of its order execution arrangements and Execution Policy in order to identify and, where appropriate, correct any deficiencies.

Pensum shall ensure that it executes orders in accordance with its Execution Policy, and, in particular, that the choice between execution venues has been made according to criteria laid down in its Execution Policy, and shall assess whether the execution venues listed in its Execution Policy actually allow to obtain the best possible result for clients or whether other execution venues would provide better results. At the request of its clients, Pensum must be in a position to prove its clients that it executed their orders in accordance with its Execution Policy.

7. Client order handling rules

Pensum shall satisfy three conditions when carrying out client orders:

1. orders executed on behalf of clients are promptly and accurately recorded and allocated;
2. client orders shall be carried out sequentially and promptly unless the characteristics of the order or prevailing market conditions make this impracticable, or the interests of the client require otherwise;
3. retail clients must be informed about any material difficulty relevant to the proper carrying out of orders promptly upon becoming aware of the difficulty.

Where prevailing market conditions prevent the timely execution of a client limit order in respect of shares admitted to trading on a regulated market, and unless the client expressly instructs otherwise, Pensum shall take own measures to facilitate the earliest possible execution of that order by making that client limit order immediately public in a manner which is easily accessible to other market participants.

Aggregation of orders of different clients or of client orders with transactions on own account is in principle prohibited but shall be permitted when the following conditions are met:

1. the aggregation shall not work to the disadvantage of the client;
2. the client shall be informed about any detrimental effect of the aggregation;
3. the establishment and implementation of an Order Allocation Policy by Pensum

8. Information to (potential) clients

Pensum shall communicate relevant information in an appropriate manner to its clients, so as to allow the latter to take informed investment decisions. Information requirements of institutions towards their clients have been considerably strengthened by MiFID laws. Thus, all information addressed by Pensum to (potential) retail or (potential) professional clients shall be fair, clear and not misleading. Marketing information shall be identifiable as such. Information shall be considered to be misleading if it has a tendency to mislead the person or persons to whom it is addressed or by whom it is likely to be received, whether or not the person who provides the information considers or intends it to be misleading.

Information on Pensum and its services, the financial instruments and proposed investment strategies, execution venues and all costs and related charges shall be provided to (potential) clients in good time before the provision of investment services or ancillary services in a durable medium or, subject to certain conditions indicated in Article 3 (2) MiFID, by means of a website to allow customers to make

informed investment decisions. Where Pensum is recommending or marketing financial instruments to clients or where it, providing any investment services, is required to provide clients with a UCITS KIID or PRIIPs KID in relation to the relevant financial instruments, aggregated information on the costs related to the financial instrument and the costs related to the investment service or activity shall be disclosed. In these cases, Pensum shall also provide annual post-sale information to the client about all the costs and charges related to both the financial instrument(s) and the investment and ancillary service(s) if there has been an ongoing client relationship during the year. That information shall be based on costs incurred and shall be provided on a personalised basis. Additionally, Pensum shall provide to its clients an illustration showing the cumulative effect of costs on return when providing investment services, on an ex-ante and ex-post basis.

Additionally, where investment advice is provided, the (potential) client shall be informed on whether the advice is provided on an independent basis, whether the advice is based on a broad or restricted analysis of different types of instruments, the range of financial instruments that may be recommended, including Pensum's relationship with the issuers or providers of the instrument as well as whether the client will be provided with a periodic assessment of suitability.

The full prospectus regarding the units of investment funds including investment companies in risk capital are deemed to provide relevant information relating to financial instruments and proposed investment strategies, which should include appropriate guidance and warnings on the risks inherent in investing in these instruments or certain investment strategies, as well as the costs and associated charges in respect to these organizations.

A KIID (Key Investor Information Document), respectively a KID (Key Information Document) are uniform disclosure documents providing standardised information about investment funds and insurance-based investment product in a way that is designed to give (retail) investors sufficiently clear, comparable information on the range of products available. The KIID replaces the simplified prospectus and presents the essential features of a fund. This information will allow the investor to understand the nature of the product offered, the risks associated with it and make a decision knowingly. The KIIDs must be provided in the language of the country in which the fund is distributed. For example, in Luxembourg, the KIIDs must exist at least in one of four languages: English, French, German and Luxembourgish.

This document limited to two pages contain the following information:

- Description of the objectives and investment policy,
- Risk profile and fund performance,
- Costs and expenses related
- Performance History
- Practical Information

Requirements for customer information must be adequate and proportionate and should take into account the status of the retail and professional client as well as of eligible counterparties. In this context, it is appropriate for professional clients and eligible counterparties requirements information are less stringent than those applicable to retail customers.

Any information provided to retail and professional clients must meet certain conditions listed in Article 44 Delegated Regulation to ensure that information is accurate, clear and not misleading. This article also lists special conditions for comparative information, those that contain an indication of past or future performance, those that involve or refer to simulated past performance as well as those referring to special tax treatment. The retail and professional client must have sufficient time after the provision of information before making a decision to invest. It is assumed that less time is needed to review information about a service or standard product the client has purchased in the past as compared to service or product that is unfamiliar and/or complex.



9. Need for a written agreement on rights and obligations of the parties

When providing investment services to clients, the conditions governing the provision of services as well as the rights and obligations of the parties are set in writing. The essential rights and obligations of the parties shall be found in the General Terms and Conditions, signed by both parties.

10. Reports provided to clients

Where the clients' assets are held in an omnibus account, Pensum shall provide each client, at least on a quarterly basis, with a statement on the financial instruments and/or funds unless such a statement has been provided in another periodic statement. These statements will not be provided if the client has access to an online system where up-to-date statements of the financial instruments or funds can be easily accessed and Pensum has evidence that the client has accessed this statement at least once during the relevant quarter.

Where a proxy was validly appointed and acts as an intermediary between the client and Pensum, the reports concerned shall be addressed to the appointed proxy and to the client, except where otherwise instructed by the client.

10.1. Investment advice

Whenever Pensum advises its clients, irrespective of whether the advice results in the execution of a transaction, Pensum shall provide retail clients with a statement on suitability specifying the advice given and how it meets the client's preferences, objectives as well as other characteristics of the client.

10.2. Portfolio management

Pensum will provide clients with a portfolio management mandate with a statement providing a fair and balanced review of the activities undertaken and of the portfolio performance during the relevant period. For retail clients, this periodic report shall also contain a statement on suitability. The statement shall be provided once every three months unless:

- a) the client chooses to receive information about executed transactions on a transaction-by-transaction basis, in which case the client shall receive the periodic statement at least once every 12 month
- b) the client accesses the statements of his/her assets through an online system at least once during the relevant quarter. Pensum shall be able to evidence that the client has indeed accessed his/her portfolio in that period and will otherwise contact the client and guide him/her through the process.

If the overall value of the client's portfolio, as evaluated at the beginning of each reporting period, decreases by 10% and thereafter at multiples of 10%, the client must be notified immediately, no later than the end of the business day in which the threshold is exceeded, or the close of the next business day where the threshold is exceeded on a non-business day. For retail accounts including positions in leveraged financial instruments or contingent liability transactions, clients shall be informed where the initial value of each instrument depreciates by 10% and thereafter at multiples of 10%. If the client and Pensum have agreed on a predetermined threshold regarding an uncovered open position in a contingent liability transaction, Pensum shall report to the retail client any losses exceeding that threshold, no later than the end of the business day in which the threshold is exceeded, or in the case where the threshold is exceeded on a non-business day, the close of the next business day.

If Pensum agreed with the client on a benchmark in a discretionary management agreement, Pensum shall include in the periodic statements a performance comparison during the period covered by the statement with the benchmark agreed upon with the client.

10.3. Execution only and brokerage services

Clients with an execution only or brokerage mandate will receive a contract note in respect of any order execution no later than the first business day following the execution, respectively, where the confirmation is received by Pensum from a third party, no later than the first business day following receipt of the confirmation from that party. The client may also receive the contract note via an online system if he/she has previously agreed to this method.

11. Record keeping

Records of all services, transactions and activities undertaken by Pensum shall be kept to enable the competent national supervisory authority to fulfil its supervisory tasks and perform enforcement actions under the MiFID laws.

12. Telephone and email recording/Face-to-face conversations

Pensum is obligated to record telephone conversations and electronic communications (e.g. e-mail) relating to transactions concluded and intended to result in transaction. Before the provision of services, new and existing clients shall be informed that (i) communications will be recorded and (ii) a record of the conversation will be available on request for a period of five years and up to seven years for authorities. Pensum may not provide investment services and activities to clients by phone who have not been notified in advance.

All records of conversations shall be stored in a durable medium, accessible to clients on request and which shall guarantee the quality, accuracy and completeness of all telephone and electronic communications.

Where an employee has a face-to-face conversation with a client, information shall be recorded regarding:

- Date, time and location of the meeting
- Identity of the attendees
- Initiator of the meeting
- Relevant information about the transaction (e.g. price, volume, type of order & when order shall be transmitted/executed)

Where telephone conversations are not recorded, the account manager shall immediately after the conversation confirm orders by e-mail.

13. Complaints Handling

Pensum has established a procedure for handling complaints, the "Client Claim Policy". Pensum shall maintain records for each client complaint and keep records of actions taken related to the handling of the complaint.

Each branch must appoint one officer in charge of complaints who will be reported to the respective financial authority.

Appendix

Financial instruments - Law of 5 April 1993 on the financial sector, Annex II, section B, as amended

1. Transferable securities.
2. Money-market instruments.
3. Units in collective investment undertakings.
4. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash.
5. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event).
6. Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market or an MTF.
7. Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6., and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, *inter alia*, they are cleared and settled through recognised clearing houses or are subject to regular margin calls.
8. Derivative instruments for the transfer of credit risk.
9. Financial contracts for differences.
10. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, *inter alia*, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls.