

(English version)

Question for written answer E-002859/26
to the Commission
Sibylle Berg (NI)
(10 July 2026)

Subject: MiFID II — Distinction between supervised investment advice and independent advice in cases of divided responsibilities or system-assisted delivery

In the practice of investment firms, it is not uncommon for one employee to conduct the client meeting, determine the client's personal circumstances and explain a specific recommendation, while another employee or a semi-automated system carries out the suitability assessment, grants approval or prepares the suitability statement.

1. What criteria under EU law are to be used to assess whether, in such a case, the employee who conducts the client meeting and explains the recommendation is already providing investment advice to the client or is merely acting under supervision?
2. For the purposes of that distinction, is it decisive who gives or communicates the content of the personal recommendation to the client or who carries out the suitability assessment, grants the approval or technically prepares or transmits the suitability statement?
3. What are the requirements under Directive 2014/65/EU on markets in financial instruments (MiFID II) and Delegated Regulation (EU) 2017/565 for a clear, transparently documented and unambiguously attributable allocation of responsibilities if the meeting, personal recommendation, suitability assessment and suitability statement are divided among several persons or systems within the relevant institution?

Submitted: 10.7.2026

Answer given by Ms Albuquerque on behalf of the European Commission
(8 September 2026)

Pursuant to Article 4(1)(4) of Directive 2014/65/EU of the European Parliament and of the Council (the Markets in Financial Instruments Directive II) ⁽¹⁾, 'investment advice means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments'.

According to Article 9 of Delegated Regulation (EU) 2017/565 ⁽²⁾, 'a personal recommendation shall be considered a recommendation that is made to a person in his capacity as an investor or potential investor, or in his capacity as an agent for an investor or potential investor.

That recommendation shall be presented as suitable for that person, or shall be based on a consideration of the circumstances of that person ... A recommendation shall not be considered a personal recommendation if it is issued exclusively to the public.'

Acting 'under supervision' means providing the relevant services to clients under the responsibility of a staff member who has both appropriate qualifications and appropriate experience.

The attribution of the recommendation, not the performance of the suitability assessment, is decisive. The individual who communicates the personal recommendation to the client is deemed to be the advice-giver. The suitability assessment may be delegated to other staff or to a semi-automated system.

Article 21 of Commission Delegated Regulation (EU) 2017/565 requires that the investment firm 'establish[es], implement[s] and maintain[s] decision-making procedures and an organisational structure which clearly and in documented manner specifies reporting lines and allocates functions and responsibilities'.

⁽¹⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, <https://eur-lex.europa.eu/eli/dir/2014/65/oj>.

⁽²⁾ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that directive, http://data.europa.eu/eli/reg_del/2017/565/oj.