

Feedback Statement

Consultation on guideline on PARP scenario analyses from a customer perspective

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Introduction

On 23 April 2024, the Dutch Authority for the Financial Markets (AFM) launched a consultation on its guideline on PARS scenario analyses from a customer perspective. The consultation ran until 7 June 2024. In this consultation, the AFM sought responses to the proposed guideline.

Eighteen responses were received, including four from industry associations. These responses enable us to make the guideline clearer. We would like to express our gratitude to the respondents.

In this feedback statement, the AFM explains how the responses to the consultation have been taken into account. For the sake of readability, the responses have been grouped by subject.

Follow-up step

The guideline on PARS scenario analyses from a customer perspective will be published on the AFM website (www.afm.nl) and will come into force on the date of publication. The AFM will also publish an English translation of the guideline at www.afm.nl and share it with EIOPA and ESMA.

Nuances in the text to reflect the character of the policy statement

The wording and some examples in the guideline have been adjusted or nuanced at some points to accommodate responses from market participants. For example, the tone of the guideline has been nuanced in certain parts to reflect the character of the policy statement.

Which firms should implement scenario analyses?

Respondents to the consultation commented that distributors have no legal obligation to conduct scenario analyses. It is correct that this obligation is incumbent on the developer, so the AFM has amended the text in section 1.3 of the guideline to provide clarification. With the guideline, the AFM seeks to advise how firms can deal with scenario analyses. The primary aim is that both developers and distributors must ensure that financial products fulfil the needs, characteristics and objectives of the target market and that the distribution strategy is appropriate for the relevant target market. In section 1.3, the AFM addresses the potential situation in which a distributor concludes that it has insufficient information about the product to understand it fully and attune the distribution strategy to the target market. The distributor is free to make its own choice in such situations, as long as the financial products are distributed to the target market and not (routinely) outside it. The distributor is then free to conduct scenario analyses, for example, if it deems it necessary.

How does this guidance relate to the ESMA Guidelines on product governance requirements?

Respondents state that the AFM provides no scope for this guideline to be applied to investment services, due to the ESMA Guidelines on product governance requirements. They also voice concern that the guideline could lead to an uneven playing field in Europe. The AFM would comment that this guideline provides a basis for implementing the product development standard and that it marks no deviation from the prevailing standards, including those in European Directives such as MiFID II. Similarly, this guideline does not deviate from or supplement the ESMA Guidelines on product development requirements, as those Guidelines do not relate to scenario analyses. Furthermore, the AFM is committed to promoting a level playing field in Europe. The AFM believes it is important that this guideline provides a basis for implementing scenario analyses and will therefore proceed with the final publication of the guideline in its current form. We also refer to our explanatory note on the status of a guideline.

Results of scenario analyses and adjustments during the management phase

Some participants stated that the guideline does not make sufficiently clear that customers' existing products are still subject to laws and regulations, including contractual agreements with customers. Hence it is not always possible to modify products in response to scenario analyses. The AFM has therefore clarified the guideline to take account of these responses by stating that in the PARP a firm must consider how to address the risks (as far as possible) in the product, the intended target market or the distribution strategy.

Is there still scope for an individual interpretation of the open PARP standard?

Respondents state that in the guideline the AFM explicitly prescribes the method of using the scenario analyses and question to what extent there is still scope for an individual interpretation of the open PARP standard. With this guideline, the AFM offers guidance that firms can use in carrying out scenario analyses. This does not mean there is no scope for firms to adopt their own interpretation regarding how scenario analyses should be performed. The AFM has made this clear by means of a number of textual adjustments. It is important that

scenario analyses give firms insight into their products and how they behave under different circumstances, so that they do not detract from the objectives of the target market and foreseeable disappointments are prevented. We also refer to the explanatory note on the status of the guideline.

How do life events relate to the role of the distributor?

Respondents state that life events at customer level are a relevant part of the advice and are therefore within the remit of the distributor and hence not relevant to the developer for inclusion in the scenario analyses. In this regard, the AFM would point out the distinction between the *ex ante* development phase and the advice phase. In the *ex ante* phase, it is the task of the developer to identify risks and determine how these can be mitigated. In the advice phase, it is then the task of the distributor to assess these risks specifically for each customer.

Section 4.2 and the example concerning home contents insurance have been adjusted. This should clarify the respective roles of the developer and the distributor in the different product development phases.

What is meant by a ‘standard product’?

The AFM notes from the consultation responses that some participants question what is meant by a ‘standard product’ with regard to the need for and depth of scenario analyses. The AFM explains that this term reflects the use of the term ‘simple product’ in the Explanatory Memorandum to the Decree on Conduct of Business Supervision of Financial Undertakings under the Wft. For the sake of clarity, these terms have been aligned in the text of the guideline. A number of responses include requests for a definition of a simple product. The AFM considers that in this context the difference between simple and complex requires a granular explanation. This means a product is not by definition simple or complex. There is a progression in the degree of complexity. As already explained in the guideline, a savings account can also have complex features. Granular application means that non-life insurance similarly cannot be considered simple by definition. It is up to the financial undertaking to determine the degree of complexity of a product, and to design its scenario analyses accordingly.

Is it possible to devote more attention to sustainability?

The consultation responses include a request for greater attention to be devoted to sustainability scenarios. The AFM has therefore added a specific paragraph to section 4.2 on this subject.

Can the different distribution methods be taken into account when determining the required depth of scenario analyses?

The AFM expects no direct relationship between the distribution method and the depth of scenario analyses. A firm must assess the necessary depth of scenario analyses on a case-by-case basis, but it may adopt a proportionate approach. As a rule, the greater the complexity or impact of the product, the more depth we would expect.

What does a proportionate application of the PARP standard mean for the various target markets?

The consultation responses raise the question of what a proportionate application of the PARP standard means for the various target markets. These include consumers, SMEs and corporate customers. The AFM advises that the PARP standard may be applied proportionately depending on the complexity and impact of the product and the extent to which publicly available information can be obtained, taking into account, among other things, the characteristics of the target market. This may mean, for example, that the scenario analyses for products distributed solely to corporate customers require less depth than scenario analyses for products that can also be

purchased by consumers. The fact that the target market comprises business customers does not mean, however, that less deep scenario analyses will be sufficient in all cases. It is up to the firm to determine when a proportionate approach is appropriate.

Should developers share scenario analyses with the distributors?

Respondents ask whether developers should share the scenario analyses with the distributors if they request them. The AFM states in section 1.3 of the guideline that the distributor should determine whether it needs information on the scenario analyses conducted by the developer. It is important that the distributor fully understands the products it intends to offer its customers. This is so that the distributor can ensure that the financial products fulfil the needs, characteristics and objectives of the target market and that the distribution strategy is appropriate for the respective target market. If this means that the distributor needs information from the developer on the conducted scenario analyses, the obvious thing to do is to request it from the developer. The way in which the information is exchanged is up to the developer and distributor. If the distributor concludes that the required information is insufficient, it may conduct its own scenario analyses or may decide not to offer the product.

Scope of PARP with regard to AIFMD and UCITS management companies that do not offer MiFID ancillary services

It should be noted that not all collective investment companies are subject to the MiFID II PARP rules. It is correct that AIFMD and UCITS management companies that do not provide MiFID ancillary services are not subject to MiFID II. However, Article 32 of the Decree on Conduct of Business Supervision of Financial Undertakings under the Wft does apply to AIFMD management companies requiring a licence. In addition, PARP applies fully to investment firms that distribute products to which no PARP has been applied by the developer of those products.



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