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MIFID (II) AND MIFIR

MiFID is the Markets in Financial Instruments Directive (2004/39/EC). It has been applicable across the European Union since November 2007. It is a cornerstone of the EU's regulation of financial markets seeking to improve the competitiveness of EU financial markets by creating a single market for investment services and activities and to ensure a high degree of harmonised protection for investors in financial instruments.

MIFID I

MiFID sets out:

- conducts of business and organisational requirements for investment firms;
- authorisation requirements for regulated markets;
- regulatory reporting to avoid market abuse;
- trade transparency obligation for shares; and
- rules on the admission of financial instruments to trading.

MIFID I

MIFID II AND MIFIR

ESMA'S ROLE

the European Commission adopted a legislative proposal

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which took the form of a [revised Directive and a new Regulation](#).

After more than two years of vigorous debate, the Directive on Markets in Financial Instruments repealing Directive 2004/39/EC and the Regulation on Markets in Financial Instruments, commonly referred to as MiFID II and MiFIR, were adopted by the European Parliament on 15 April 2014, by the Council of the European Union on 13 May 2014 and published in the EU Official Journal on 12 June 2014.

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 in 2007 and, in light of the financial crisis, to improve the functioning of financial markets making them more efficient, resilient and transparent.

ESMA'S ROLE

Technical standards

MiFID II and MiFIR empower ESMA to develop numerous draft regulatory technical standards (RTS) and draft implementing technical standards (ITS) and ESMA delivered three sets of technical standards

- on 29 June 2015 ([Final Report](#))
- on 28 September 2015 ([Final Report](#), [Technical Standards](#) and [CBA](#))
- on 11 December 2015

The rules contained in these draft technical standards, once implemented, will bring the majority of non-equity products into a robust regulatory regime and move a significant part of OTC trading onto regulated platforms. More specifically, the key rules introduce:

Fairer, safer and more efficient markets through:

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GUIDELINES ON CALIBRATION OF CIRCUIT BREAKERS AND PUBLICATION OF TRADING HALTS UNDER MIFID II
(Guidelines & Recommendations ESMA70-872942901-63)

RESPONSE TEMPLATE CONSULTATION TRADING OBLIGATION MIFIR
(Reference ESMA70-156-166)

CONSULTATION PAPER TRADING OBLIGATION FOR DERIVATIVES UNDER MIFIR
(Consultation Paper ESMA70-156-71)

Q&A ON MIFID II AND MIFIR MARKET STRUCTURES TOPICS
(Q&A ESMA70-872942901-38)

Q&A ON MIFIR DATA REPORTING
(Q&A ESMA70-1861941480-56)

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- tests to determine whether a non-financial firm's speculative investment activities are so great that it should be subject to MiFID II;
- ranges for the new EU-wide commodity derivatives position limits regime;
- rules governing high-frequency-trading, imposing a strict set of organisational requirements on investment firms and trading venues;
- provisions regulating the non-discriminatory access to central counterparties (CCPs), trading venues and benchmarks, designed to increase competition;
- provisions requiring trading venues to offer disaggregated data on a reasonable commercial basis.

Greater transparency through use of :

- thresholds for the pre-trade and post-trade transparency regimes extended to equity-like instruments, bonds, derivatives, structured finance products and emission allowances;
- a newly-introduced liquidity assessment for non-equity instruments;
- a newly-introduced trading obligation for shares and certain derivatives to be traded only on regulated platforms and, in the case of shares, systematic internalisers, instead of over-the-counter;
- a double volume cap mechanism to limit dark trading and reshape the use of waivers for shares and equity-like instruments;
- newly-introduced reporting requirements for commodity derivatives.

Stronger investor protection by:

- improved disclosure to strengthen the best execution regime.

ESMA now has to adopt, where necessary, Level 3 measures (Guidelines, Q&As, etc) to provide guidance to the different stakeholders and ensure consistent implementation across the Union.

Technical advice

In addition, ESMA received a formal [request](#) from the European Commission on 23 April 2014 to provide technical advice to assist the European Commission on the possible content of the delegated acts required by several provisions of MiFID II/MiFIR. ESMA delivered its [technical advice](#) on 19 December 2014.

Monitoring, publications and reports

MIFID I n of MiFID II/MiFIR (3 January 2018), ESMA will be
MIFID II AND MIF y on-going duties including in particular the on-going
ESMA'S ROLE ration on its website (e.g. reference data or volumes of
TIMEFRAME der certain waivers for the purpose of the double volume
 production of reports in cooperation with the European
 Commission (e.g. on the functioning of OTF or SME growth markets) and the
 monitoring and publication of opinions of how certain provisions are
 implemented (e.g. implementation of position limits or use of pre-trade
 transparency waivers).

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LOOKING TO THE FUTURE - STEVEN MAIJOOR ADDRESSES FIA IDX CONFERENCE

07 June 2017

Steven Maijoor, Chair of the European Securities and Markets...

[ESMA71-99-480_FIA_IDX_CONFERENCE_KEYNOTE_SPEECH_BY_STEVEN](#)

ESMA UPDATES ITS MIFID II Q&AS

31 May 2017

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[List of NCAs responsible for the enforcement of the duties provided for by MiFID I](#)

3 January 2018	MiFID II and MiFIR apply within Member States
3 July 2017	MiFID II transposed into national law of Members States
3 January 2016	ESMA published and sent to the Commission its second set of Technical Standards (2015/1858)
28 September 2015	ESMA published and sent to the Commission its second set of Technical Standards (2015/1464)
31 August 2015	ESMA published a Consultation Paper on draft ITS (2015/1301)

SEE FULL TIMELINE

MIFID I

MIFID II AND MIF

ESMA'S ROLE

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