

PRESS RELEASE

ESMA provides implementing rules for MiFID II

The European Securities and Markets Authority (ESMA) has published today its final [technical advice](#) (TA) and launches a [consultation](#) on its draft regulatory technical and implementing standards (RTS/ ITS) regarding the implementation of the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR).

Both ESMA's TA and draft RTS translate the MiFID II/MiFIR requirements into practically applicable rules for market participants and national supervisors. The new regulatory framework aims at ensuring that secondary markets are fair, transparent and safe and that investors' interests are safeguarded when being sold investment products.

Steven Maijoor, ESMA Chair, said:

“Today's implementing rules on both secondary markets and investor protection issues reflect ESMA's desire to achieve the best outcome for market users and investors, taking into account the extensive submissions received from our stakeholders. The advice now goes to the European Commission to use in preparation of its delegated legislation, while our technical standards are open for a second round of consultation.

“Once fully implemented, MiFID II will have a significant impact on the EU's securities markets, its users and infrastructure providers. It will bring greater transparency and improve the overall functioning of markets thus strengthening investors' trust in the financial sector.”

MiFID II to include most financial instruments, trading venues and techniques

MiFID II/MiFIR introduces changes to the functioning of secondary markets, including transparency requirements for a broad range of asset classes; the obligation to trade derivatives on trading venues; requirements for algorithmic and high-frequency-trading and new supervisory tools for commodity derivatives.

The key proposals stemming from ESMA's TA/draft RTS cover the following issues:

- increased trade transparency, for non-equity instruments, in particular bonds, derivatives, structured finance products and emission allowances;
- a trading obligation for shares and a double volume cap mechanism for shares and equity-like instruments, introducing a major change to the framework for trading these instruments in the Union;
- an obligation to trade derivatives on MiFID venues (regulated markets, multilateral (MTFs) or organised trading facilities (OTFs)) only, in line with G20 requirements;
- newly introduced position limits and reporting requirements for commodity derivatives;
- rules governing high frequency trading, imposing a strict set of organisational requirements on investment firms and trading venues;
- provisions regulating access to central counterparties (CCPs), trading venues and benchmarks, designed to increase competition in the Union; and
- requirements for a consolidated tape of trading data, including rules for tape providers, reporting, publication and sales of data.

MiFID II to improve investor protection

ESMA's TA proposes that the Commission adopts a number of measures that will further the protection of investors across the EU. The main proposals relating to the improved protection of investors, especially retail, include:

- clarifications about the circumstances in which portfolio managers can receive research from third parties;
- clarifications under which circumstances inducements meet the quality enhancement requirement for the provision of advice;
- requirements for investment firms manufacturing and/or distributing financial instruments and structured deposits to have product governance arrangements in place in order to assess the robustness of their manufacture and/or distribution;
- requirements for firms to provide clients with details of all costs and charges related to their investment, including cost aggregations, the timing of disclosure (ex-ante and ex-post); information to non-retail clients; the scope of firms subject to this obligation; information on the cumulative effect of costs on the return;
- organisational requirements for firms providing investments advice on an independent

basis; and

- specification of powers for ESMA and national regulators with regards to prohibiting or restricting the marketing and distribution of financial instruments.

Next steps

The TA has been finalised following extensive consultations with stakeholders and will now be sent to the European Commission. ESMA's draft RTS/ITS, already previously consulted upon, are open for public comment until 2 March 2015. In addition, an open hearing will be held in Paris on 19 February 2015.

ESMA will use the input received from the consultations to finalise its draft RTS which will be sent for endorsement to the European Commission by mid-2015, its ITS by January 2016. MiFID II/ MiFIR and its implementing measures will be applicable from 3 January 2017.

Notes for editors

1. [2014-1569 Final Report - ESMA's Technical Advice to the Commission on MiFID II and MiFIR](#).
2. The [consultation documents](#) regarding ESMA's MIFID II RTS/ITS are available on ESMA's website.
3. The Markets in Financial Instruments Directive (MiFID), which has been in force since 2007, is a cornerstone of the regulation of financial markets in the European Union. It regulates the authorisation and the supervision of investment firms, the requirements for the provision of investment services and activities, the authorisation and supervision of trading venues and the requirements for trading activities in financial instruments across the EU.
4. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).
5. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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