

## PRESS RELEASE

### ESMA consults on MiFID reforms

The European Securities and Markets Authority (ESMA) has launched the consultation process for the implementation of the revised Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR). This is the first step in the process of translating the MiFID II/MiFIR requirements into practically applicable rules and regulations to address the effects of the financial crisis and to improve financial market transparency and strengthen investor protection.

MiFID II/MiFIR introduces changes that will have a large impact on the EU's financial markets, these include transparency requirements for a broader range of asset classes; the obligation to trade derivatives on-exchange; requirements on algorithmic and high-frequency-trading and new supervisory tools for commodity derivatives. It will also strengthen protection for retail investors through limits on the use of commissions; conditions for the provision of independent investment advice; stricter organisational requirements for product design and distribution; product intervention powers; and the disclosure of costs and charges.

MiFID II/MiFIR contains over 100 requirements for ESMA to draft Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS), and to provide Technical Advice to the European Commission to allow it to adopt delegated acts. In order to ensure that MiFID II achieves its objectives in practice, ESMA is publishing the following documents:

1. [Consultation Paper on MiFID/MiFIR Technical Advice](#) – ESMA needs to deliver this advice to the European Commission by December 2014 and is therefore subject to a condensed consultation process for this paper; and
2. [Discussion Paper on MiFID/MiFIR draft RTS/ITS](#) – this will provide the basis for a further consultation paper on the draft RTS/ITS which is expected to be issued in late 2014/early 2015.

The closing date for responses to both papers is Friday 1 August.



Steven Maijoor, ESMA Chair, said:

“The launch of today’s MiFID II/MiFIR consultation process is an important step in the biggest overhaul of financial markets regulation in the EU for a decade. The reform of MiFID is an integral part of the EU’s strategy to address the effects of the financial crisis and aims to bring greater transparency to markets and to strengthen investor protection. These changes are key to restoring trust in our financial markets.

“We appreciate the magnitude of this exercise for stakeholders. We strongly encourage all those affected by these reforms to provide their views to ensure that we take them into account in our final proposals.”

The main issues covered in the Discussion and Consultation Paper are divided into those addressing the structure, transparency and regulation of financial markets, and those aimed at strengthening investor protection.

### **Financial Markets Structure, Transparency and Regulation**

The main proposals in this area cover the following issues:

- enhanced transparency and trading obligations - increasing pre- and post-trade transparency for many categories of instruments, e.g. shares, ETFs, certificates, bonds and derivatives, limitations to trade shares OTC and new obligations to trade derivatives on trading venues;
- micro-structural issues – refining the definition of high frequency trading and direct electronic access and specifying the requirements for operating in the market using algorithmic techniques;
- data publication and access – issues related to the development of the consolidated tape including requirements for tape providers, approved publication arrangements and reporting mechanisms, and the definition of a *reasonable commercial basis* for data sales; and the access to CCPs, trading venues and benchmarks;
- other organisational requirements for trading venues; and
- commodity derivatives – new regulatory tools, including position limits.



## **Investor Protection**

The main proposals relating to the improved protection of retail investors include technical advice on:

- inducements – new limitations on the receipt of commissions (inducements);
- independent advice – clearly distinguishing independent from non-independent advice;
- product governance – requirements on the manufacture and distribution of financial products including target market and risk identification;
- product intervention/banning - introducing powers for both ESMA and national regulators to prohibit or restrict the marketing and distribution of certain financial instruments; and
- improved information on costs and charges – requirements to provide clients with details of all charges related to their investment (relating to both the investment service and the financial instrument provided) so they can understand the overall cost and its effect on their investment's return.

In addition, the draft regulatory technical standards in the investor protection area relate to the authorisation of investment firms, passporting, and certain best execution obligations.

## **Next Steps**

ESMA will hold three public hearings about secondary markets, investor protection and commodity derivatives issues on Monday 7 and Tuesday 8 July. Further details on the hearings will be published on ESMA's website.



## Notes for editors

1. [2014/548 Discussion Paper – MiFID II/MiFIR](#)
  2. [2014/549 Consultation Paper – MiFID II/MiFIR](#)
  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.
1. 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).
  2. 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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