AFME Members’ Briefing call - Next steps for MiFID

27 February 2014
Overview of process and content

Timeline for finalisation of MiFID Review

- L1 expected published in June 2014, triggering formal start of L2 process – to be completed within 30 months, at which point (late 2016/early 2017) an entire new regulatory regime will begin to apply

Stocktake of Level 1

- L1 texts appear helpful in some areas, including provision of liquidity-sensitive transparency requirements for bonds and a regime for non-EU firms that maintains more open EU markets compared to original proposals
- Agreed texts fall short in other areas, including curtailment of OTC and dark trading for equities, and limits on competition between CCPs and venues

Challenges for Level 2

- L1 texts envisage multiple policy makers using a complex mix of legal instruments to develop, consult and implement a huge number of L2 measures across a wide range of areas
- Focusing on our policy priorities, AFME will continue to engage with policy makers and industry participations as the MiFID Review moves to L2
Policy perspective on process and content

Level 2 instruments

‘Commission’ Delegated Acts
- European Commission given more power
- ESMA provides non-binding draft technical advice to the Commission
- More politically sensitive; shorter consultation periods

Regulatory Technical Standards or Implementing Technical Standards (‘RTS’ or ‘ITS’)
- ESMA empowered and formally involved
- Detailed impact assessments required
- More technical in nature; longer consultation periods

Parliament and Council scrutiny including powers to revoke the delegation or to object the proposed Level 2 instrument
Timeline for Level 2 process

- Final approval of texts by European Parliament (April 2014) and EU Council (May/June 2014)
- **July 2014:** MiFID II / MiFIR enter into force (20 days after publication in Official Journal)
  *Late May/early June 2014:* ESMA’s first consultations expected
- **December 2014:** ESMA delivers technical advice on DAs to Commission
- **July 2015:** ESMA submits draft RTS to Commission
- **January 2016:** ESMA submits draft ITS to Commission
- **July 2016:** MiFID II transposed into national law in Member States
- **January 2017:** MiFID II and MiFIR applies within Member States
Review of AFME member priority issues

**Third country**
- For retail clients, MSs may require 3CFs to establish branch, or MS can allow such services to continue to be provided on basis of existing MS rules
- For pro clients, a 3CF can provide services across EU if it first registers with ESMA (subject to equivalence and reciprocity). 3CFs can continue to service pro clients under current MS rules until (positive-only) equivalence decision

**Equity structure and transparency**
- Texts introduce concentration rule requiring nearly all OTC to be executed on venues or via an SI – curtailing investor choice
- Restrictions on use of waivers (RPW & NTW) at 8% of European trading in an equity and at 4% per venue where that stock is traded likely to be disruptive

**Non-equity transparency**
- Texts recognize need to protect illiquid markets, allowing waivers for voice trading and liquidity calibrated transparency requirement

**Open Access**
- Rights of access will be subject to a 30-month transitional period and new benchmarks will not need to be licensed until two years after launch
The Association for Financial Markets in Europe advocates stable, competitive and sustainable European financial markets that support economic growth and benefit society.

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