

## **MiFID II: Less than a month to go**

13 December 2017

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## **Introduction & opening remarks**

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Working Groups / Committees	Issue	Outcomes
<b>Research WG + Compliance</b>	Operation of Research Payment Accounts	<ul style="list-style-type: none"> <li>• Commission sharing agreements preserved through evolution into research payment accounts</li> <li>• Standard form RCCA (Research Charge Collection Agreement)</li> <li>• Advocacy and briefing note on the legal status of funds prior to payment into a research payment accounts</li> </ul>
	Extraterritorial application of the research and inducements rules	<ul style="list-style-type: none"> <li>• SEC no action relief for (1) US brokers who sell research to EU investment firms in accordance with MiFID rules and (2) US investment managers who pay for research in accordance with MiFID rules. Also third SEC no action relief re mixed commission payments and EC Q&amp;A on extraterritorial acquisition of research by EU firms</li> </ul>
<b>Equity Capital Markets WG</b>	Pre-deal connected research	<ul style="list-style-type: none"> <li>• Acceptable as a minor non-monetary benefit in the UK where the research is clearly circulated to inform potential investors about that specific issuance prior to a deal being completed</li> </ul>
<b>Compliance</b>	Role of the Compliance function	<ul style="list-style-type: none"> <li>• Clarity achieved on the role of the Compliance function, and the surveillance and monitoring functions; in the three lines of defence model</li> <li>• Initial proposal that Compliance should be responsible for all regulatory risk, as well as complaints; amended to reflect normal 3LD allocation of responsibilities within firms</li> </ul>
<b>Corporate Finance + Compliance</b>	Telephone taping requirements on MiFID II extension to corporate finance in the UK.	<ul style="list-style-type: none"> <li>• FCA reviewed its initial proposal to extend the MiFID telephone taping requirements to corporate finance business</li> <li>• Briefing notes on application of taping requirements to ECM and M&amp;A activities</li> </ul>

<b>Working Groups / Committees</b>	<b>Issue</b>	<b>Outcomes</b>
<b>Costs and charges WG</b>	Application of the costs and charges regime to wholesale markets	<ul style="list-style-type: none"> <li>September ESMA Q&amp;A refrained from addressing wholesale issues</li> </ul>
<b>Securities Trading Committee</b>	Scope and practical impact of the share trading obligation (STO)	<ul style="list-style-type: none"> <li>Imminent STO equivalence decisions (US, Switzerland, Hong Kong and Australia)</li> <li>Narrower and more practical STO scope of application</li> </ul>
	Systematic Internalisers (SI) and intra-group risk transfers	<ul style="list-style-type: none"> <li>Commission's amendment to the definition of SI risked prohibiting intra-group risk transfers, which was eventually reversed</li> </ul>
<b>Inducements WG</b>	Application of the inducements rules	<ul style="list-style-type: none"> <li>Flow charts on application of the inducements rules to research and more generally</li> <li>Paper on inducements and the scope of execution services</li> </ul>
<b>Capital Markets + Compliance</b>	Interplay with PRIIPs	<ul style="list-style-type: none"> <li>Ongoing dialogue with EC and EIOPA on impact of PRIIPs and product governance on retail distribution of bonds</li> </ul>
<b>Equity Capital Markets/High Yield</b>	Allocations and Product Governance	<ul style="list-style-type: none"> <li>Papers/industry guidance on application of new rules to allocations and product governance</li> </ul>

<b>Working Groups / Committees</b>	<b>Issue</b>	<b>Outcomes</b>
<b>Fixed Income Committee</b>	COFIA vs IBIA	<ul style="list-style-type: none"> <li>• Move from COFIA approach for bonds to IBIA</li> </ul>
	FI transparency thresholds and ex-ante assessment	<ul style="list-style-type: none"> <li>• Phased implementation over a period of at least 4 years of the new liquidity calibration and LIS/SSTI thresholds</li> <li>• Annual assessment of liquidity before progressing to more stringent set of requirements</li> </ul>
	Post-trade deferrals in different Member States	<ul style="list-style-type: none"> <li>• Extended post-trade deferrals granted in UK, Germany, Spain and (depending on consultation outcome) France</li> </ul>
<b>GFMA Commodities WG</b>	Position limits and reporting regimes	<ul style="list-style-type: none"> <li>• The position limits regime will only apply to contracts with a commodity underlying. Moreover, the position reporting regime is limited to contracts subject to a position limit.</li> <li>• ESMA and NCAs confirmed position reporting chain ends at the first non-investment firm.</li> </ul>
<b>Steering Committee</b>	Impact of absence of LEIs on open positions	<ul style="list-style-type: none"> <li>• FCA clarification that there was no requirement to close open positions without an LEI</li> </ul>

## Implementation challenges and focus in H1 2018 in order of priority

Share trading obligation

Proposed extension of the tick size regime to systematic internalisers

PRIIPS and MiFID II/MiFIR product governance: impact of sales of bonds to retail investors

Extraterritorial aspects, including

(i) DEA + market access

(ii) Post trade transparency

(iii) research (US unbundling relief expires mid-2020)

Venue readiness

'No LEI, no trade'

SI identification

Areas		2018+
<b>Engagement drivers</b>		<ul style="list-style-type: none"> <li>• MiFID II review =&gt; planning for MiFID III</li> <li>• Likely changes to x-border and third country regime (incl. Brexit)</li> <li>• ESMA Level 2&amp;3 ongoing work</li> <li>• Articulating industry vs other visions of transparency and efficiency</li> </ul>
<b>AFME MiFID Steering Committee Focus Areas 2018</b>	<b>DEA &amp; remote access</b>	<ul style="list-style-type: none"> <li>• DEA access from 3rd countries</li> <li>• Other forms of access to/from 3<sup>rd</sup> country markets</li> </ul>
	<b>SI</b>	<ul style="list-style-type: none"> <li>• Pressures on continued existence of the regime</li> </ul>
	<b>Tick sizes</b>	<ul style="list-style-type: none"> <li>• Likely extension to SIs (initial consultation closes 25.01.18)</li> </ul>
	<b>STO</b>	<ul style="list-style-type: none"> <li>• Impact of equivalence decisions, practical application and likely refinement</li> </ul>
	<b>Post trade transparency</b>	<ul style="list-style-type: none"> <li>• FCA interpretation ( roundtable Q1/18)</li> </ul>
	<b>Deferrals</b>	<ul style="list-style-type: none"> <li>• Harmonisation of deferral regimes across the EU</li> </ul>
	<b>Costs and charges</b>	<ul style="list-style-type: none"> <li>• Possible push to harmonise</li> </ul>
	<b>Investor Protection</b>	<ul style="list-style-type: none"> <li>• Adding detail on existing and new topics</li> </ul>



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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# Q & A

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