

2017 outlook with one year to go to MiFID II Where are we now?

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AFME Members' Briefing Call

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- April 2016: the Permanent Representative Committee of the European Parliament adopted the European Commission's proposal to postpone the start date for MiFID II by one year to January 2018.
- The transposition deadline of MiFID II delegated directives into national law has been extended to July 2017.
- The delegated regulation will apply directly to EU investment firms on 3rd January 2018.
- ESMA is expected to issue further Q&As and Guidance on many areas of MiFID II up to and beyond the January 2018 live date.
- Level 1 takes form of Directives and Regulations
- Level 2 takes form of Delegated Acts and RTS.
- Level 3 take the form of Q&A and Guidelines

MiFID II will bring about significant change on banks' and brokers' strategic and operating models.

- **Strategy:** products, trading platforms & market structure
- **Operations:** trading workflow & client interaction
- **Technology:** increased data requirements & systems overhaul
- **Relationships:** data driven & formalized

Priorities for Markets Topics:

- (1) Share Trading Obligation
- (2) Systematic Internaliser
- (3) Best execution reporting

Priorities for advocacy for Conduct of Business Aspects:

- (1) Research and Inducements
- (2) Investor Protection topics

Negative consequences

- Best execution and investor protection negatively impacted
- Unlevel playing field
- Negative impact on investment from the EEA

Potential solutions:

- Interpretation of the meaning “undertake” in Article 23 MiFIR
- Equivalence
- Short selling regulation analogy
- Best Ex vs. Share Trading Obligation

Matched Principal Trading

- Finding a home for Matched Principal Trading within the confines of the text remains a significant challenge.

From MiFID I to MiFID II

- MiFID I introduced the definition of 'SI' for European equity markets
- MiFID II/R extends the SI regime to other financial instruments and broadens the definition

Data

- Availability of high quality static data integral to determining post-trade reporting responsibility.

SI/TOTV identification

- Appropriately granular data required to determine SI/TOTV

RTS 27 quarterly publication

- New data publication obligations on execution venues set out in MiFID II Article 27(6) and RTS 27.
- Trading venues, systematic internalisers, market makers and other liquidity providers will be required, on a quarterly basis to make available to the public free of charge, data relating to the quality of transactions on that venue.
- This is a sea change from MiFID I, and certainly constitutes a significant new regulatory burden on execution venues, but it also is the single most important rule change in terms of improving market transparency.

RTS 28 annual publication

- Article 27(6) and RTS 28 contains a new requirement, not present in MiFID I, that firms who execute client orders must publish annually for each class of financial instruments the top five execution venues in terms of trading volumes where they executed client orders in the preceding year and information on the quality of execution obtained.

MiFID II places regulatory requirements around the provision and reception of research, by mandating that, with a few limited exceptions, all research must be paid for unless it is deemed a minor non-monetary benefit.

- Inducement or Minor Non-Monetary Benefit?
- Equities vs FICC
- Unbundling
- CSAs and RPAs
- Extraterritorial impacts

- FX
- Commodities
- Transaction Reporting
- LEI
- Third country and equivalence

- Legislative process
- Advocacy update
- Key milestones

Q&A

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