MiFID II

Frequently Asked Questions

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1. What is MIFID II and what is its purpose?

Directive 2014/65/EU on Markets in Financial Instruments (MiFID II) came into force on 3 January 2018 and is a European Directive whose main aim is to enhance investor protection and transparency in the markets. The Directive is accompanied by EU Regulation 600/2014 on Markets in Financial Instruments (MiFIR), which is directly applicable without the need for any domestic implementing legislation. These extensive pieces of legislation (hereinafter referred to as “MiFID II”) impose significant requirements on investment firms and markets; hence the delay of one year in the original go-live date of 3 January 2017, which was granted to allow market players more time to adjust.

2. Who and what is in scope of MiFID II?

In simple terms all financial instruments and services are in scope, except linked long-term contracts of insurance and foreign exchange transactions that fall within specific parameters.

3. What are the main changes brought about by MiFID II?

MiFID II follows its predecessor, MiFID I. It extends the scope of products and activities, introduces stricter governance requirements and more accountability on senior management, prohibits the payment and retention of inducements, extends market transparency and transaction reporting, and enhances investor protection.

4. How does MiFID II affect consumers of financial instruments?

The European Securities and Markets Authority (ESMA) is overseeing changes in the ownership of financial instruments to ensure transparency and control against market abuse. To achieve this, parties to a trade in investment products, be it individuals or firms, are being identified. In the case of firms these are obliged to provide a Legal Entity Identifier (LEI), which in an international unique identifier for non-individuals; while personal customers must disclose their Identification or passport number together with their nationality.

5. What is the added protection awarded to consumers of financial instruments?

The added protection includes amongst others;

- more information on financial products provided both before and after the conclusion of the transaction;
- enhanced requirements on firms to undertake an appropriateness assessment prior to the non-advised sale of, inter alia, complex financial instruments, to assess whether the investor has the required knowledge and experience to understand the risk associated with the specific investment product;
- additional information on costs and charges aimed to increase transparency;
- more information to be provided in the provision of advice, which advice must be disclosed as being independent or otherwise (as the case may be), and which must be delivered in a written statement following the assessment of suitability.

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