MiFID2/MiFIR

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Regulatory Update March 2016
MiFID2/MiFIR - Timing

MiFID2 / MiFIR enter in force

Revised deadline for final draft RTS

Current national transposition deadline 3 July 2016

Current date of application 3 January 2017

2014 Q3 Q4 Q1 Q2 Q3 Q4

2015 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4

2016 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4

2017 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4

2018 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4

30 months

Legislative proposal for amendment

Legislative amendment in force?

Expected new date of application 3 January 2018

MiFID2/MiFIR
Legislative amendments

■ Commission proposal does not:
  – Address issues of phase-in and data dependencies
  – Change date for implementation of Market Abuse Regulation
  – Address timing issues for Benchmarks Regulation

■ Proposed European Parliament amendments (ECON)
  – Move Member State transposition deadline to 3 July 2017
  – Exemption from transparency, reporting for SFTs
  – Exemptions for non-equities “package transactions”:
    – Pre-trade (on venue): if one component illiquid, above LIS or above SSTI (if executed on voice or RFQ system)
    – Pre-trade (SIs): package treated as illiquid if one component is illiquid; obligation to quote is only for the package as a whole
  – Removing barrier to corporates being participants or having direct electronic access to venues:
    – Only lose exemption if engage in high frequency algorithmic trading
“Traded on a trading venue”

- Affects application to OTC transactions of:
  - Pre- and post-trade transparency, transaction reporting
  - Mandatory trading of equities on venue
  - Market abuse regime and Benchmarks Regulation

- Issues for equities, bonds
  - Is admission to trading sufficient?
  - Treatment of MTFs and OTFs
  - Does trading have to be contemporaneous, frequent?
  - Reference data: Article 4 MAR and Article 27 MiFIR

- Additional issues for OTC derivatives
  - When is OTC instrument the same as a venue-traded instrument?
  - Identical attributes but different coupon, date, parties?
  - Core attributes and additional attributes
  - Identifying OTC derivatives – use of ISINs
Other current topics include

- Calibration of liquidity and SSTI thresholds
- Recognition of SEFs for trading mandate for OTC derivatives
- Commodities
  - Ancillary activities test
  - Position reporting – client confidentiality
  - Number of different position limit regimes
- RTS 28: reporting by “execution venues”
  - Scope and volume of data required
- Definition of ‘multilateral systems’
- Application to cross-border transactions
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