

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular - Industry update on MiFID II and MiFIR

On 22nd May 2014, ESMA issued consultation documents for the implementation of the revised Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR).

This is the first step in the process of translating the MiFID II/MiFIR requirements into practically applicable rules and regulations to address the effects of the financial crisis and to improve financial market transparency and strengthen investor protection.

MiFID II/MiFIR introduce changes that will have a large impact on the EU's financial markets, these include transparency requirements for a broader range of asset classes; the obligation to trade derivatives on-exchange; requirements on algorithmic and high-frequency-trading and new supervisory tools for commodity derivatives. It will also strengthen protection for retail investors through limits on the use of commissions; conditions for the provision of independent investment advice; stricter organisational requirements for product design and distribution; product intervention powers; and the disclosure of costs and charges.

MiFID II/MiFIR contains over 100 requirements for ESMA to draft Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS), and to provide Technical Advice to the European Commission to allow it to adopt delegated acts.

In order to ensure that MIFID II achieves its objectives in practice, ESMA is publishing the following documents:

1. ***Consultation Paper on MiFID/MiFIR Technical Advice*** – this document can be accessed from the following link:
<https://www.mfsa.com.mt/pages/viewcontent.aspx?id=339>
2. ***Discussion Paper on MiFID/MiFIR draft RTS/ITS*** – this document can be accessed from the following link:
<https://www.mfsa.com.mt/pages/viewcontent.aspx?id=339>

Target Audience

These publications will be of interest to all stakeholders involved in the securities markets, in particular to investment firms and credit institutions performing investment services and activities. These publications are also important for trade associations and industry bodies, institutional and retail investors and their advisers, and consumer groups, as well as any market participant because the MiFID II and MiFIR requirements seek to implement enhanced provisions to ensure investor protection and the transparency and orderly running of financial markets with potential impacts for anyone engaged in the dealing with or processing of financial instruments.

Response to ESMA documents

In order to facilitate feedback, ESMA will be using an IT tool that does not allow processing of responses which do not follow the formatting indications described hereunder. Therefore, in responding, stakeholders should click on the following link: <http://www.esma.europa.eu/consultations/overview/10> and follow the under-mentioned instructions:

- i. use the published template (“form to reply”) and send responses in Word format;
- ii. do not remove the tags of type <ESMA_QUESTION_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- iii. if stakeholders do not have a response to a question, this should not be deleted. The text between the tags should be left as follows: “TYPE YOUR TEXT HERE”.

Responses are most helpful:

- i. if they respond to the question stated;
- ii. contain a clear rationale, including on any related costs and benefits; and
- iii. describe any alternatives that ESMA should consider.

Given the breadth of issues covered, ESMA expects and encourages respondents to specially answer those questions relevant to their business, interest and experience.

Publication of responses:

All contributions received by ESMA will be published following the end of the consultation period, unless otherwise requested. You are therefore kindly requested to clearly indicate by ticking the appropriate checkbox in the website submission form, if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. Note also that a confidential response may be requested from ESMA in accordance with ESMA’s rules on access to documents. ESMA may consult you if it receives such a request. Any decision ESMA make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

The closing date for responses to both papers is **Friday 1 August 2014**.

Contacts

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23rd May 2014