

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular - Industry update on MiFID II and MiFIR

MiFID II/MiFIR introduces 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.

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

1. ***Technical Advice on MiFID II*** – this document can be accessed from the following link:
http://www.mfsa.com.mt/pages/readfile.aspx?f=/files/LegislationRegulation/regulation/securities/MiFID/2014-1569_final_report_-_esmas_technical_advice_to_the_commission_on_mifid_ii_and_mifir.pdf
2. ***A consultation on its draft regulatory technical and implementing standards (RTS/ITS) regarding the implementation of MiFID II and MiFIR*** – this document can be accessed from the following link:
http://www.mfsa.com.mt/pages/readfile.aspx?f=/files/LegislationRegulation/regulation/securities/MiFID/2014-1570_Consultation%20Paper%20MiFID2.pdf.

ESMA invites responses to the specific questions listed in the ESMA MiFIDII / MiFIR Consultation Paper. Kindly refer to the under-mentioned sub-section titled '*Response to ESMA documents*'.

Both ESMA's Technical Advice and the draft RTS translate the MiFID II / MiFIR requirements into practically applicable rules for market participants and national supervisors. The new regulatory framework aims at ensuring that secondary markets are fair, transparent and safe and that investors' interests are safeguarded when being sold investment products.

Target Audience

These publications are of interest to all stakeholders involved in the securities markets, in particular to, investment firms and credit institutions performing investment services and activities, data reporting services providers and trading venues. 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

As highlighted above, ESMA is inviting responses to the specific questions listed in the ESMA MiFID II / MiFIR Consultation Paper. Please note that ESMA will only be able to consider responses received using this “[form to reply](#)” and complying with the procedure below.

Please note that, in order to facilitate analysis of the large number of responses expected, ESMA will be using an IT tool that does not allow processing of responses which do not follow the formatting indications described below. Therefore, in responding stakeholders should:

- i. use the [published template](#) and send their responses in Word format (pdf documents will not be considered except for annexes);
- ii. 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 they have no response to a question, not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

In order to facilitate the handling of stakeholders responses please save your document using the following format:
ESMA_MiFID2_CP_NAMEOFCOMPANY_NAMEOFDOCUMENT:

e.g. if the respondent were ESMA, the name of the reply form would be
ESMA_MiFID2_CP_ESMA_REPLYFORM or
ESMA_MiFID2_CP_ESMA_ANNEX1

Responses are most helpful:

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

Given the breadth of issues covered, ESMA expects and encourages respondents to specifically answer those questions relevant to their business, interest and experience. Responses must reach ESMA by **2 March 2015**. All contributions should be

submitted online at www.esma.europa.eu under the heading ‘Your input/Consultations’.

Next Steps

The ESMA Technical Advice has been finalised following extensive consultations with stakeholders and will be now sent to the European Commission. As already stated above, ESMA’s draft RTS/ITS are open for public comment until **2 March 2015**. In addition, an open hearing will be held in Paris on 19th February 2015.

ESMA will use the input received from the consultations to finalise its draft RTS, which will be sent to the European Commission for endorsement by mid-2015 and the ITS by January 2016. MiFID II / MiFIR and its implementing measures will be applicable from 3rd January 2017.

Contacts

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