

Corporate & Financial Weekly Digest

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European Commission Publishes MiFID II Proposals

On October 20, the European Commission published the MiFID II proposals for amendments to MiFID (the Markets in Financial Instruments Directive (2004/39/EC)). The MiFID II proposals consist of a Regulation (MiFIR) on markets in financial instruments and on OTC derivatives, central counterparties and trade repositories and a Directive (MiFID II) on markets in financial instruments amending MiFID. The use of a Regulation directly applicable into the law of each EU member state reflects the need to achieve a uniform set of rules in certain areas.

The MiFID II proposals are intended to:

- Introduce more robust and efficient market structures.
- Take account of technological and market developments since MiFID was implemented in November 2007.
- Increase transparency of the markets for equities, derivatives and other investments.
- Reinforce supervisory powers and introduce a stricter framework for commodity derivatives markets.
- Introduce stronger investor protection.

The MiFID II proposals will now pass to the European Parliament and the Council of the European Union for consideration, negotiation and adoption. Once adopted, the Regulation, the MiFID II Directive, and the necessary technical rules implementing these requirements, will come into force on the same date. This is likely to be towards the end of 2014.

The proposed MiFIR sets out requirements relating to:

- Publication of trade transparency data;
- Transaction reporting;
- Non-discriminatory access to clearing facilities;

- Mandatory trading of derivatives on organized trading venues;
- Specific supervisory actions regarding financial instruments and positions in derivatives;
- Provision of services by third-country firms.

The proposed MiFID II, which will replace Directive 2004/39/EC and amend existing requirements on the:

- Authorization, organizational and conduct of business requirements for investment firms and trading venues.
- Authorization and ongoing obligations for providers of market data and other reporting services.

The proposed EU legislation on over-the-counter (OTC) derivatives, central counterparties and trade repositories (known as the European Market Infrastructure Regulation (EMIR)), and on short-selling and credit default swaps, both complement MiFID II. EMIR aims to minimize counterparty credit risk and operational risk. The proposed Regulation on short selling and certain aspects of credit default swaps is intended to reduce risks associated with short selling and the use of credit default swaps. Each is likely to enter into force before MiFID II

Katten Muchin Rosenman LLP will produce a series of *Client Advisories* on various aspects of the MiFID II proposals. The first two of these Advisories will address proposals affecting proprietary traders and algorithmic traders and issues relating to the mandatory trading of derivatives on organized trading venues and mandatory clearing.

For more information about the MiFID II proposals, click [here](#).

Read through and enter the discussion with the form at the end
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