



# NewsFlash

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## MiFID II postponed until January 2018

The European Commission has recently reported that the Markets in Financial Instruments Directive (MiFID) and the new regulation Markets in Financial Instruments Regulation (MiFIR) will both come into force on 3rd January, 2018. The new MiFID II and MiFIR will have a significant impact on the financial sector. However, postponing the original date of introduction shouldn't be an excuse to take our foot off the accelerator.

### Objectives MiFID I and II

MiFID I was introduced in November 2007 and since then this directive has brought about particular improvements with regards to competition and further integration of European financial markets. Rules were also introduced with regards to the protection of investments and market integrity. The ultimate goal of this regulation was to promote fair and transparent marketplaces. The monopoly of the traditional stock exchanges has now been broken over recent years. Alongside this development transaction costs have been reduced significantly. The emergence of alternative trading systems is clearly noticeable and lasting, and pricing of certain elements within the value chain has become more transparent. However, there were many exemptions in the first round of regulation. Moreover, MiFID I had insufficient focus on new trading methods such as high frequency trading and algorithmic trading.

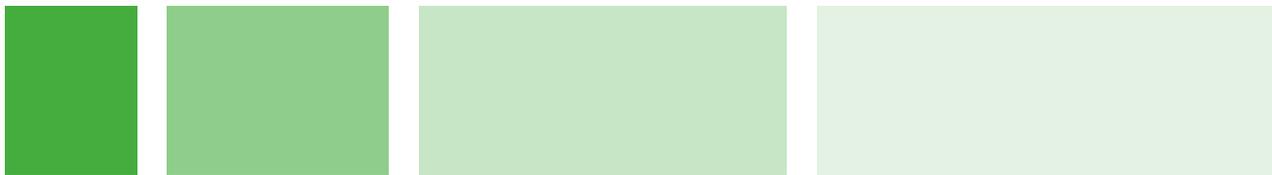
MiFID II will replace MiFID I with a new regulatory framework, where the financial crisis has exposed gaps in investor protection and shortcomings in the functioning and transparency of financial markets. The aim of MiFID II is to make European financial markets more efficient and transparent, as well as to improve investor protection. This new legislation is particularly relevant to new financial products and technological innovations with regard to trading in financial markets.

### Key aspects of MiFID II

- Extending the ban on commissions
- Tightening the requirements for directors of investment firms
- Powers of the authority to ban financial products (Product governance)
- Regulation of trading in commodity derivatives
- Introduction of a new trading platform: the Organised Trading Facility (OTF) for trading in bonds, derivatives or structured products
- Rules surrounding high-frequency trading
- Extending transaction reporting (resulting in considerably more data)

MiFID II also extends the authority of local regulators. In the Netherlands the Autoriteit Financiële Markten (AFM) will, in specific situations, be entitled to suspend the marketing or sale of a financial instrument or product. In addition to this the AFM will be authorised to impose position limits on traders in commodity derivatives.

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## Impact on the financial sector

What the exact impact of MiFID II will be is still not entirely clear. At KAS BANK a project group is working on an impact analysis of MiFID II on the processes, procedures and IT infrastructure of the bank. For example a procedure where this will be seen is the extension of the product approval process. The project also puts current offerings of the bank in scope. MiFID II will significantly expand the reporting requirements in carrying out an order (best execution). Worth mentioning are elements such as date-stamps and timestamps and reporting about many more financial instruments than MiFID I currently covers.

Other examples of the heightened MiFID II regime are a detailed set of rules on the provision of information about the total cost of an investment service, a statement concerning the independence of financial advice and rules on offering products of "unrelated companies".

To determine the impact of MiFID II on your own organization, given the scope and complexity of the legislation, legal expertise will be required. Although MiFID II and its reporting requirements have been postponed until January 2018 we believe it is wise to keep the momentum going and prepare well in order to be compliant with these new regulations.

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