



### **European Regulatory Summary - September 2016**

Significant regulatory changes are to be introduced with MiFID II in January 2018. Benchmarks are now subject to EU Implementing Regulation. New EU rules for insider dealing and market manipulation have come into force. The Fair and Effective Markets Review implementation report has been published. The PRA has issued supervisory and policy statements for regulatory requirements for remuneration under Solvency II. Data is being collected to develop new prudential rules for investments firms.

### **MiFID II**

MiFID II takes effect on 03 January 2018 and the FCA is consulting on proposed changes to the handbook to implement this. [Click here](#) to access CP16/19: Markets in Financial Instruments Directive II implementation proposals.

This CP covers a range of issues including position limits and reporting for commodity derivatives, systems and controls requirements for firms providing MiFID investment services, along with fees and client asset protections.

Pre- and post-trade transparency: existing requirements are being revised and will be applied to non-equities. The details of the equity and non-equity transparency regimes have been determined through 'Level 2' implementing measures. Among other transparency requirements, trading venues will need to make pre trade information publicly available; although this rule is waived in certain situations e.g. no liquid market; order is large in scale compared with normal market size, or held in an order management facility.

Transaction reporting: the scope is being extended to include instruments trading on Multilateral Trading Facilities (MTFs) and Organised Trading Facilities (OTFs), and financial instruments based on other financial instruments trading on venues. Additional information e.g. whether a transaction in shares or sovereign bonds is a short sale and whether a transaction took place under an applicable waiver, will need to be reported. MiFID II introduces an EU-wide ARM (Approved Reporting Manager) regime under which investment firms can make transaction reports through firms authorised to act as ARMs. Operators of trading venues will have to report transactions executed through their systems by firms not subject to MiFIR (Markets in Financial Instruments Regulation).

Algorithmic trading: specific provisions to regulate high frequency trading (HFT) have been detailed via 'Level 2' implementing measures. HFT firms engaging in proprietary trading will need to be authorised under MiFID. There will be systems and controls requirements on the use of algorithms, and firms which pursue market making strategies on trading venues will be required to enter into market making agreements with the venues.

### **New EU rules to fight insider dealing and market manipulation in Europe's financial markets take effect**

These new rules are applicable as of 03 July 2016. The updated rules strengthen and replace the existing EU rules on market integrity and investor protection, first adopted in 2003. The new rules consist of the Market Abuse Regulation and also of the Directive on Criminal Sanctions for Market Abuse, the latter from which the UK has opted out.

### **European Commission adopts Implementing Regulation on EURIBOR benchmark**

The EC has adopted an Implementing Regulation establishing a list of 'critical' benchmarks, i.e. those indexes that are of particular importance for financial markets and consumer contracts. This enables supervisors to make use of certain provisions of the Benchmarks Regulation (EU 2016/1011) in advance of its entry into application in 2018. [Click here](#) for the press release.

### **ESMA finalises technical standards on sanctions and measures under MAR**

The Implementing Technical Standards (ITS) prescribe how National Competent Authorities (NCAs) should notify ESMA annually of the investigations they conduct and the sanctions and measures imposed in their Member States under MAR. [Click here](#) to access the ITS.

### **Fair and Effective Market Review: Implementation Report**

On 28 July 2016, the Fair and Effective Markets Review published a full implementation report to the Chancellor of the Exchequer, the Governor of the Bank of England and the Chairman of the Financial Conduct Authority. The report explains the significant progress that has been made to implement the Review's recommendations: raise standards, professionalism and accountability of individuals; improve the quality, clarity and market-wide understanding of FICC trading practices; strengthen regulation of FICC markets in the United Kingdom; launch international action to raise standards in global FICC markets; promote fairer FICC market structures while also enhancing effectiveness; and forward-looking conduct risk identification and mitigation. [Click here](#) to access the report.

### **Solvency II**

The PRA has issued a [supervisory statement](#) (Remuneration requirements - SS10/16) and a [Policy Statement](#) (Remuneration requirements – PS22/16).

The SS is relevant to all UK insurance and reinsurance firms and groups within the scope of Solvency II and the PS is relevant to all UK Solvency II firms including the Society of Lloyd's and managing agents.

### **EBA launches data collection to support the new prudential framework for investment firms**

EBA launched a data collection aimed at supporting the response to the European Commission's Call for Advice on a new prudential framework for MiFID (Markets in Financial Instruments Directive) investment firms, which should be less complex, more risk sensitive and more proportionate than the current regime.

The EBA will launch an ad-hoc data collection for commodity dealers at a later stage.

### **ESMA issues warning on sale of speculative products to retail investors**

ESMA has issued a [warning](#) about the sale of contracts for differences (CFDs), binary options and other speculative products to retail investors who are unaware of the risks associated with these products, and also highlights the regulatory action taken in relation to several Cyprus-based investment firms.

### **ESMA updates its EMIR Q&A**

ESMA has issued an update of its [Q&A](#) on practical questions regarding the European Market Infrastructure Regulation (EMIR).

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and cost-effectively."*



The updated Q&A includes a new answer in relation to reporting of trades cleared by a clearing house which is not a CCP under the EMIR definition. The Q&A clarifies that such entities should not be identified in the “CCP ID” field of EMIR report.

**EBA consults on strong customer authentication and secure communications under PSD2**

The EBA has issued a Consultation Paper on draft technical standards on strong customer authentication and common and secure communication under the revised Payment Services Directive (PSD2). These technical standards will ensure appropriate levels of security, while at the same time maintaining fair competition between all payment service providers and allowing for the development of user-friendly, accessible and innovative means of payment.

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