

EU MATTERS: your newsletter on EU matters



January 2018

Happy New Year from Ludovic, Elina and Kristiina in Brussels!

General and Institutions

Brexit

- ✚ The European Council decided that the **sufficient progress** was achieved during the first phase of negotiations, in order to move to the second phase related to transition and the framework for the future relationship.

See the decision in the link here:

<http://www.consilium.europa.eu/media/32236/15-euco-art50-guidelines-en.pdf>

European and Monetary Union (EMU)

- European Commission set out a **roadmap for deepening EMU**, including concrete steps to be taken over the next 18 months. The package includes a proposal to establish a European Monetary fund and also spells out the possible functions of a European Minister for Economy and Finance. Also included are proposals to amend the Common Provisions Regulation, governing the European Structural and Investment Funds, in order to extend the possibilities to use part of their performance reserve in support of agreed reforms.

Read more here:

https://ec.europa.eu/info/publications/economy-finance/completing-europes-economic-and-monetary-union-policy-package_en

Legislative files

MiFID

- The revised MiFIDII/MiFIR package started applying on 3 January 2018. In relation to the starting date, ESMA published available **data** here: <https://www.esma.europa.eu/databases-library/registers-and-data> and also issued a guidance to national competent authorities and market participants on the topic of continuity of cross-border provision of investment services in the

transition between MiFID I and MiFID II, including in the event that there is **late transposition** by some Member States.

Link here:

<https://www.esma.europa.eu/press-news/esma-news/esma-provides-guidance-cross-border-investment-services-and-mifid-transposition>

- ESMA has added 10 new Q&As on the implementation of **investor protection** topics under MiFID II/MiFIR. The new Q&As cover the topics of inducements, suitability, and provision of investment services and activities by third country firms.

Read it here:

https://www.esma.europa.eu/sites/default/files/library/esma35-43-349_mifid_ii_qas_on_investor_protection_topics.pdf

- ESMA has updated the following Q&As regarding MiFID and MiFIR:
 - ✚ **post-trading** issues in relation to the segregation level for indirect clearing accounts.

See the link:

https://www.esma.europa.eu/sites/default/files/library/esma70-151-957_qas_on_mifid_post_trading.pdf

- ✚ commodity derivatives relating to **position limits and position reporting**.

Read it here:

https://www.esma.europa.eu/sites/default/files/library/fca_ice_brent_b_position_limit_opinion_2.pdf

- ✚ regarding **data reporting** including
 - Unknown date of admission
 - Concept of underlying
 - Non-EU branches of EU Investment firms

- ✚ **transparency and market structures** issues

https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-56_qas_mifir_data_reporting.pdf

- ESMA has published two revised opinions providing guidance related to **third-country trading venues** for post trade transparency and position limits under MiFIDII/MiFIR.

Read about them here:

post trade transparency:

https://www.esma.europa.eu/sites/default/files/library/esma70-154-165_smsc_opinion_transparency_third_countries.pdf

position limits:

https://www.esma.europa.eu/sites/default/files/library/esma70-156-112_cdtf_opinion_eotc_third_countries.pdf

- The European Commission adopted MiFIR **equivalence decisions**, recognizing certain trading venues in the US, Australia, Hong Kong and Switzerland as eligible for the MiFIR trading obligation for shares.
Here you find all decisions and also annexes with all the recognized venues:
https://ec.europa.eu/info/law/markets-financial-instruments-mifid-ii-directive-2014-65-eu/amending-and-supplementary-acts/implementing-and-delegated-acts_en
- ESMA has published a table compiling the supplementary **deferral regimes** applicable in different Member States for trading in non-equity instruments under MiFIR.

<https://www.esma.europa.eu/press-news/esma-news/esma-provides-overview-mifid-ii-deferral-regimes>

- ESMA updated MiFID II **trading halts procedure**.
See the link below:
<https://www.esma.europa.eu/press-news/esma-news/esma-updates-mifid-ii-trading-halts-procedure>
- ESMA decided to delay publication of **double volume cap data**, due to insufficient quality and completeness of available data. ESMA foresees the data will instead be published in March 2018.
Read the press release here:
https://www.esma.europa.eu/sites/default/files/library/esma71-99-925_esma_dvc_delay.pdf
- ESMA has published a list of trading venues for which a temporary **exemption from the open access** provisions regarding exchange traded derivatives in MiFIR.
See the link here:
<https://www.esma.europa.eu/press-news/esma-news/esma-issues-list-trading-venues-temporarily-exempted-open-access-under-mifir>
- ESMA has issued the first **position management controls** for commodity derivatives:
<https://www.esma.europa.eu/press-news/esma-news/esma-publishes-first-mifid-ii-position-management-controls-commodity>
- ESMA has published a register of those derivative contracts that are subject to the **trading obligation** under MiFIR:
https://www.esma.europa.eu/sites/default/files/library/public_register_for_the_trading_obligation.pdf

CMU

- The European Commission has issued a consultation on the topic “building a proportionate regulatory environment to **support SME listing**”. The Commission is assessing whether targeted amendments to EU rules could deliver a more conducive regulatory environment to support SME listings. The consultation will help the Commission identify ways to cut red tape and build a supportive environment for SMEs wanting to list on public markets. The consultation is open until 26 February 2018.
See the link here:
https://ec.europa.eu/info/consultations/finance-2017-barriers-listing-smes_en

EMIR

- ESMA has issued an update of its Q&A on practical questions regarding the **implementation** of EMIR.

The updated Q&A includes new answers in relation to:

- Indirect clearing
- Reporting of collateral
- Swap reporting to trade repositories and
- Contracts with no maturity

Here is the link:

https://www.esma.europa.eu/system/files_force/library/esma70-1861941480-52_qa_on_emir_implementation.pdf?download=1

- ESMA has opened a public consultation on draft guidelines which aim to clarify the implementation of **anti-procyclicality** provisions for CCPs under EMIR. The guidelines seek to promote consistent and uniform application of EMIR on:
 - ✚ the monitoring of margin procyclicality;
 - ✚ the implementation of anti-procyclicality margin measures; and
 - ✚ the disclosures to facilitate margin predictability.

See the consultation here:

https://www.esma.europa.eu/sites/default/files/library/esma70-151-1013_consultation_paper_for_guidelines_on_apc_margin_measures.pdf

Benchmark Regulation (BMR)

- The European Benchmark Regulation **started applying** on 3 January 2018. In relation to this, ESMA starts publishing a register of administrators and third country benchmarks.

<https://www.esma.europa.eu/press-news/esma-news/update-bench-registers-3-january-2018>
- ESMA has published updated Q&As regarding the **implementation** of the Benchmarks Regulation (BMR) which includes two new answers regarding the following topics:
 - Authorisation and registration: on the obligations applicable to administrators; and
 - Requirements for users: regarding the written plans to be produced by supervised entities

See the link here:

https://www.esma.europa.eu/sites/default/files/library/esma70-145-114_qas_on_bmr_0.pdf

Other

IOSCO

- The Financial Stability Board (FSB), Basel Committee on Banking Supervision (BCBS), Committee on Payments and Market Infrastructures (CPMI) jointly with IOSCO launched surveys as part of their joint work to review the effects on incentives to centrally OTC derivatives trades following the implementation of the G20 regulatory reforms.

See more about the surveys here:

<http://www.fsb.org/2017/12/call-for-responses-to-surveys-on-incentives-to-centrally-clear-otc-derivatives/>

EVENTS

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|--------|--|
| 15 Jan | ESMA's consultation on positions calculation under EMIR closes |
| 17 Jan | CEPS: Cybersecurity in the EU: Living within a paradox of progress, Brussels |
| 22 Jan | QED: ESAs review event series: Mandate, Governance and Funding, Brussels |
| 23 Jan | EPFSF lunch event on "EMIR: CCP oversight", Brussels |

- 25 Jan** ESMA's consultation on amendments to MiFID II RTS 1 (Systematic Internalisers) closes
- 29 Jan** European Commission's consultation on the ESAs review closes (23+29 Jan)
- 1 Feb** 16th Annual Financial Services conference, Brussels, Lauri Rosendahl, President of Nordics, Nasdaq speaking
- 20 Feb** EPFSF lunch event on "Brexit", Brussels
- 26 Feb** European Commission's consultation on building a proportionate regulatory environment to support SME listing closes
- 28 Feb** ESMA's consultation on draft Guidelines on Anti-Procyclicality Margin Measures for CCPs closes
- 9 Mar** ESMA's consultation on Draft regulatory technical standards under the new Prospectus Regulation closes