

MiFID II / MiFIR – Legislative Tracker

Irish Implementing Measures

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[SI 375 of 2017 European Union \(Markets in Financial Instruments\) Regulations 2017](#)

The Regulations give effect to Directive 2014/65/EU, Commission Delegated Directive (EU) 2017/593 and full effect to Regulation (EU) No. 600/2014.

The Regulations provide for the authorisation and operational requirements for investment firms, stock exchanges and other types of trading venues, and data reporting service providers. The Regulations also apply to credit institutions, which provide investment services, and provide for the supervision, cooperation and enforcement by competent authorities.

[SI 614 of 2017 European Union \(Markets in Financial Instruments\)\(Amendment\) Regulations 2017](#)

The Regulations set out a number of amendments to the European Union (Markets in Financial Instruments) Regulations 2017.

Level I Measures

MiFID II

[Directive 2014/65/EU](#) on markets in financial instruments

[Directive 2016/1034/EU](#) delaying the application of MiFID II by one year to 3 January 2016

MiFIR

[Regulation \(EU\) 600/2014](#) on markets in financial instruments

[Regulation \(EU\) 2016/1033](#) delaying the application of MiFIR by one year to 3 January 2016

Level II Measures – Delegated Acts

Delegated Acts
<p><u>Delegated Directive (EU) 2017/593</u> Safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits</p>
<p><u>Delegated Regulation (EU) 2017/565</u> Organisational requirements and operating conditions for investments firms and defined terms for the purposes of that Directive</p>
<p><u>Delegated Regulation (EU) 2017/567</u> Definitions, transparency, portfolio compression and supervisory measures on product intervention and positions</p>
<p>Delegated Regulation (EU) 2017/1799 Exemption of certain third countries central banks in their performance of monetary, foreign exchange and financial stability policies from pre- and post-trade transparency requirements</p>
<p>Delegated Regulation (EU) 2017/2194 Package Orders</p>

Level II Measures - Regulatory Technical Standards (“RTS”) & Implementing Technical Standards (“ITS”)

Transparency

RTS	Technical Standard	Referenced Articles	Legislation
RTS 1	Transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser	MiFIR Articles 4(6), 7(2), 14(7), 20(3), 22(4) and 23(3)	Delegated Regulation (EU) 2017/587
RTS 2	Transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives	MiFIR Articles 1(8), 9(5), 11(4), 21(5) and 22(4)	Delegated Regulation (EU) 2017/583
RTS 3	The volume cap mechanism and the provision of information for the purposes of transparency and other calculations	MiFIR Articles 5(9) and 22(4)	Delegated Regulation (EU) 2017/577
RTS 4	Criteria for determining whether derivatives subject to the clearing obligation should be subject to the trading obligation	MiFIR Article 32(6)	Delegated Regulation (EU) 2016/2020
RTS 5	Direct, substantial and foreseeable effect of derivative contracts within the Union and the prevention of the evasion of rules and obligations	MiFIR Article 28(5)	Delegated Regulation (EU) 2017/579

Microstructural issues

RTS	Technical Standard	Referenced Articles	Legislation
RTS 6	Specifying the organisational requirements of investment firms engaged in algorithmic trading	MiFID II Article 17(7)(a) and (d)	Delegated Regulation (EU) 2017/589
RTS 7	Specifying organisational requirements of trading venues	MiFID II Article 48(12)(a),(c) and (g)	Delegated Regulation (EU) 2017/584
RTS 8	Specifying the requirements on market making agreements and schemes	MiFID II Article 17(7)(a), (b) and (c) and Article 48(12)(a) and (f)	Delegated Regulation (EU) 2017/578
RTS 9	The ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions	MiFID II Article 48(12)(b)	Delegated Regulation (EU) 2017/566
RTS 10	Requirements to ensure fair and non-discriminatory co-location services and fee structures	MiFID II Article 48(12)(d)	Delegated Regulation (EU) 2017/573
RTS 11	Tick size regime for shares, depositary receipts and exchange traded funds	MiFID II Article 49(3) and (4)	Delegated Regulation (EU) 2017/588
RTS 12	Determination of a material market in terms of liquidity in relation to notifications of a temporary halt in trading	MiFID II Article 48(12)(e)	Delegated Regulation (EU) 2017/570

Data Publication

RTS	Technical Standard	Referenced Articles	Legislation
RTS 13	Authorisation, organisational requirements and the publication of transactions for data reporting services providers	MiFID II Articles 61(4), 64(6),(8), 65(6), (8), and 66(5)	Delegated Regulation (EU) 2017/571
RTS 14	Specification of the offering of pre-and post-trade data and the level of disaggregation of data	MiFIR Article 12(2)	Delegated Regulation (EU) 2017/572
RTS 15	Clearing access in respect of trading venues and central counterparties	MiFIR Articles 35(6) and 36(6)	Delegated Regulation (EU) 2017/581
RTS 16	Access in respect of benchmarks	MiFIR Article 37(4) (a), (b), and (c)	Delegated Regulation (EU) 2016/2021

Requirements Applying on and to Trading Venues

RTS	Technical Standard	Referenced Articles	Legislation
RTS 17	Admission of financial instruments to trading on regulated markets	MiFIR 3rd subpara Article 51(6)	Delegated Regulation (EU) 2017/568
RTS 18	Suspension and removal of financial instruments from trading	MiFID II 10th subpara of Article	Delegated Regulation

RTS	Technical Standard	Referenced Articles	Legislation
		32(2) and the 10th subpara of Article 52(2)	(EU) 2017/569

Commodity Derivatives

RTS	Technical Standard	Referenced Articles	Legislation
RTS 20	Criteria to establish when an activity is considered to be ancillary to the main business	MiFID II Article 2(4)	Delegated Regulation (EU) 2017/592
RTS 21	Application of position limits to commodity derivatives	MiFID II Article 57(3) and (12)	Delegated Regulation (EU) 2017/591

Market Data Reporting

RTS	Technical Standard	Referenced Articles	Legislation
RTS 22	Reporting of transactions to competent authorities	MiFIR 3rd subpara of Article 26(9)	Delegated Regulation (EU) 2017/590

RTS	Technical Standard	Referenced Articles	Legislation
RTS 23	Supply of financial instruments reference data	MiFIR the 3rd subpara of Article 27(3)	Delegated Regulation (EU) 2017/585
RTS 24	Maintenance of relevant data relating to orders in financial instruments	MiFIR 4th subpara of Article 25(3)	Delegated Regulation (EU) 2017/580
RTS 25	Level of accuracy of business clocks	MiFID II 3rd subpara of Article 50(2)	Delegated Regulation (EU) 2017/574

Post – Trading Issues

RTS	Technical Standard	Referenced Articles	Legislation
RTS 26	Specifying the obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing (STP)	MiFIR Article 29(3)	Delegated Regulation (EU) 2017/582

Best Execution

RTS	Technical Standard	Referenced Articles	Legislation
RTS 27	Data to be published by execution venues on the quality of execution of transactions	MiFID II point (a) of the 1st subpara of Article 27(10)	Delegated Regulation (EU) 2017/575
RTS 28	Annual publication by investment firms of information on the identity of execution venues and on the quality of execution	MiFID II point (b) of the 1st subpara of Article 27(10)	Delegated Regulation (EU) 2017/576

Implementing Technical Standards (“ITS”)

ITS	Technical Standard	Referenced Articles	Legislation
ITS 1	Standard forms, templates and procedures for cooperation arrangements	MiFID II Article 79(9)	Implementing Regulation (EU) 2017/988
ITS 2	Suspension and removal of financial instruments	MiFID II Articles 32(3) and 52(3)	Implementing Regulation (EU) 2017/1005
ITS 3	Standard forms, templates and procedures for the authorisation of data reporting services providers	MiFID II Article 61(5)	Implementing Regulation (EU) 2017/1110

ITS	Technical Standard	Referenced Articles	Legislation
ITS 4	Position Reporting	MiFID II Article 58(5)	Implementing Regulation (EU) 2017/1093
ITS 5	Format and timing of weekly position reports	MiFID II Article 58(7)	Implementing Regulation (EU) 2017/953
ITS 6	Standard forms, templates and procedures for the consultation of other competent authorities to cooperate in supervisory activities, on-site verifications, and investigations and for the exchange of information	MiFID II Articles 80(4) and 81(4)	Implementing Regulation (EU) 2017/980
ITS 7	Standard forms, templates and procedures for the consultation of other competent authorities prior to granting an authorisation	MiFID II Article 84(4)	Implementing Regulation (EU) 2017/981
ITS 8	Procedures and forms for submitting information on sanctions and measures	MiFID II Article 71(1)	Implementing Regulation (EU) 2017/1111
ITS 19	Description of the functioning of multilateral trading facilities and organised trading facilities and the notification to ESMA	MiFID II 3rd subpara of Article 18(11)	Implementing Regulation (EU) 2016/824

Technical Standards on Authorisation, Passporting, Regulation of Third Country Firms and Cooperation between Competent Authorities

RTS / ITS	Technical Standard	Referenced Articles	Legislation
<u>RTS</u>	Authorisation	MiFID II Article 7(4)	Delegated Regulation (EU) 2017/1943
<u>ITS</u>	Authorisation	MiFID II 3rd subpara of Article 7(5)	Implementing Regulation (EU) 2017/1945
<u>RTS</u>	Passporting	MiFID II subpara of Articles 34 (8) and the 3rd subpara of Article 35(11)	Delegated Regulation (EU) 2017/1018
ITS	Passporting	MiFID II Articles 34(9) and 35(12)	Implementing Regulation (EU) 2017/2382
<u>RTS</u>	Cooperation between authorities	MiFID II Article 80(3)	Delegated Regulation (EU) 2017/586
<u>RTS</u>	Registration of third country firms	MiFIR Article 46(7)	Delegated Regulation (EU) 2016/2022

Technical Standards on Proposed Acquisition of a Qualifying Holding in an Investment Firm

RTS / ITS	Technical Standard	Referenced Articles	Legislation
RTS	Information to be included by proposed acquirers in the notification of a proposed acquisition of a qualifying holding in an investment firm	MiFID II Article 12(8)	Delegated Regulation (EU) 2017/1946
ITS	Standard forms, templates and procedures for the consultation process between relevant competent authorities in relation to the notification of a proposed acquisition of a qualifying holding in an investment firm	MiFID II Article 12(9)	Delegated Regulation (EU) 2017/1944

Technical Standards on Indirect Clearing Arrangements

RTS / ITS	Technical Standard	Referenced Articles	Legislation
RTS	Indirect Clearing Arrangements	MiFIR Article 30(2)	Delegated Regulation (EU) 2017/2154

Technical Standards on Trading Obligation for Certain Derivatives

RTS / ITS	Technical Standard	Referenced Articles	Legislation
RTS	Trading Obligation for Certain Derivatives	MiFIR Article 32(1)	Delegated Regulation (EU) 2017/2417

Level III

ESMA Final Guidelines

Guideline	Reference
Guidelines compliance table - Guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II (ESMA70-872942901-63)	ESMA70-156-177
Guidelines on the management body of market operators and data reporting services providers	ESMA70-154-271
<u>Guidelines of the calibration of circuit breakers and publication of trading halts under MiFID II</u>	ESMA70 -872942901-63
<u>Guidelines on transaction reporting, order record keeping and clock synchronisation under MiFID II</u>	ESMA/2016/1452
<u>Guidelines on cross-selling practices</u>	ESMA/2016/574

<u>Guidelines for the assessment of knowledge and competence</u>	ESMA71-1154262120-153
<u>Guidelines on complex debt instruments and structured deposits</u>	ESMA/2015/1787
Guidelines on the assessment of the suitability of members of the management body and key function holders	EBA/GL/2017/12

ESMA Final Reports

Final Report	Reference
Final Report – Peer review on certain aspects of the compliance function under MiFID I	ESMA42-111-4285
Final Report – Guidelines on the management body of market operators and data reporting service providers	ESMA70-154-266
Final report - Joint ESMA and EBA Guidelines on the assessment of suitability of members of the	

management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU	EBA/GL/2017/12/ESMA71-99-598
<u>Final Report - Guidelines on MiFID II product governance requirements</u>	ESMA35-43-620
<u>Final Report - Guidelines on the calibration of circuit breakers and the publication and reporting of trading halts under MiFID II</u>	ESMA70-872942901-17
<u>Final Report - Guidelines on transaction reporting, order record keeping and clock synchronisation under MiFID II</u>	ESMA/2016/1451
<u>Final Report - Guidelines on cross-selling practices</u>	ESMA/2015/1861
<u>Final Report - Guidelines for the assessment of knowledge and competence</u>	ESMA/2015/1886
<u>Final Report - Guidelines on complex debt instruments and structured deposits</u>	ESMA/2015/1783

Final Report - Technical Advice to the Commission on MiIFD II and MiFIR	ESMA/2014/1569

ESMA Final Q&As

Q&A	Reference
Q&A on MiFID II and MiFIR on investor protection and intermediaries topics (Last update 18 December 2017)	ESMA35-43-349
Q&A on MiFID II and MiFIR transparency topics (Last update 18 December 2017)	ESMA70-872942901-35
Q&A on MiFID II and MiFIR market structures topics (Last update 18 December 2017)	ESMA70-872942901-38

<p>Q&A on MiFID II and MiFIR commodity derivatives topics (Last update 15 December 2017)</p>	<p>ESMA70-872942901-28</p>
<p>Q&A on MiFIR data reporting (Last update 18 December 2017)</p>	<p>ESMA70-1861941480-56</p>
<p>Q&A relating to the provision of CFDs and other speculative products to retail investors under MiFID (Last update 31 March 2017)</p>	<p>ESMA35-36-794</p>

ESMA Consultation Papers

Consultation Paper	Reference

Consultation Paper on Amendments to Commission Delegated Regulation 2017/587 (RTS 1)	ESMA70-156-275
<u>Consultation Paper - Guidelines on certain aspects of the MiFID II suitability requirements</u>	ESMA35-43-748
<u>Consultation Paper - The trading obligation for derivatives under MiFIR</u>	ESMA70-156-71
<u>Consultation Paper - Draft technical standards on data to be made publicly available by TRs under Article 81 of EMIR</u>	ESMA/2016/1661
<u>Consultation Paper - Draft RTS on package orders for which there is a liquid market</u>	ESMA/2016/1562
<u>Consultation Paper - Joint ESMA and EBA Consultation Paper on guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU (CRD IV) and Directive 2014/65/EU (MiFID II)</u>	ESMA/2016/1529

<u>Annex I - Template for the assessment of collective suitability</u>	Annex I ESMA/2016/1529
<u>Consultation Paper - Guidelines on the calibration, publication and reporting of trading halts</u>	ESMA/2016/1440
<u>Consultation Paper - Draft guidelines on MiFID II product governance requirements</u>	ESMA/2016/1436
<u>Consultation Paper – Guidelines on specific notions under MiFID II related to the management body of market operators and data reporting services providers</u>	ESMA/2016/1437
<u>Consultation Paper -RTS specifying the scope of the consolidated tape for non-equity financial instruments</u>	ESMA/2016/1422

ESMA Discussion Papers

Paper	Reference
Discussion paper on the trading obligation for derivatives under MiFIR	ESMA/2016/1389

ESMA Reporting Instructions

Reporting Instruction	Reference
ESMA Technical Reporting Instructions - MiFIR Transaction Reporting	ESMA/2016/1521
ESMA Reporting Instructions - FIRDS Reference Data System	ESMA/2016/1522
ESMA Reporting Instructions - FIRDS Transparency System	ESMA/2016/1523

ESMA Reporting Instructions - Double Volume Cap System	ESMA/2016/1524
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ESMA Opinions

Opinion	Reference
ESMA Opinion – Determining third-country trading venues for the purpose of position limits under MiFID II	ESMA70-154-466
ESMA Opinion – Determining third-country trading venues for the purpose of transparency under MiFID II / MiFIR	ESMA70-154-467
ESMA Opinion to support supervisory convergence in the area of secondary markets in the context of the United Kingdom withdrawing from the European Union	ESMA70-154-270
ESMA Opinion on ancillary activity - market size calculation	ESMA70-156-165

<u>ESMA Opinion determining third-country trading venues for the purpose of transparency under MiFID II / MiFIR</u>	ESMA70-154-165
<u>ESMA Opinion on determining third-country trading venues for the purpose of position limits under MiFID II</u>	ESMA70-156-112
<u>ESMA Opinion on OTC derivatives traded on a trading venue</u>	ESMA70-156-117

Consultation Papers

[Public Consultation on national discretions in the Markets in Financial Instruments Directive \(“MiFID 2”\) incorporating elements of the Insurance Distribution Directive \(“IDD”\)](#)

Department of Finance, June 2016

[Public Consultation on national discretions in the Markets in Financial Instruments Directive \(“MiFID 2”\) - Feedback Statement](#)

Department of Finance, July 2017