

ESMA Releases Level 2 Regulations Under MiFID II

The European Securities and Markets Authority (“ESMA”) published today an important new set of rules under the revised Markets in Financial Instruments Directive (“MiFID II”). MiFID II came into force on 2 July 2014. It will not have effect until 3 January 2017, reflecting the period granted to European Union member states to transpose its provisions into national law and for production of the associated “Level 2” rules.

ESMA published today:

- its final “technical advice” on various topics covered by “regulatory technical standards”, following its six-month consultation on these topics. The regulatory technical standards are a form of Level 2 legislation (subsidiary to the Directive) that ESMA is responsible for drafting and comprise rules on numerous detailed matters that are covered at a high level in the Directive.
- a consultation paper that follows an earlier ESMA discussion paper on various topics covered by “implementing technical standards”, including transparency, data publication, requirements applying to trading venues, commodity derivatives and market data reporting. Implementing technical standards are a form of Level 2 legislation that ESMA is responsible for drafting. They cover more technical topics and involve less policy discretion on ESMA’s part.

The topics on which ESMA has produced final technical advice include important topics under MiFID II such as new product governance rules, conflicts of interest, best execution, broker soft commission and commission payments to distributors. In all cases, there will be a significant new layer of detail and prescription in these rules under MiFID II, compared to the first iteration of the Directive. On the assumption that ESMA’s final technical advice will be adopted in due course by the European Commission, today’s publication forms a significant new set of rules.

We will publish detailed Alerts on these topics.

ESMA’s releases can be accessed [here](#).

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