

Getting started on MiFID II / MiFIR projects: Investor protection

The table below sets out some of the key Level 1, Level 2 and Level 3 MiFID II / MiFIR provisions as regards investor protection. However, the table is not intended to provide the definitive position on all applicable measures and clients should contact their usual financial services contact at Norton Rose Fulbright LLP.

Topic and Level 1 provisions		Level 2 provisions	Level 3 provisions
Product governance	Article 24(2) and (3) of MiFID II	Articles 9 and 10 of Commission Delegated Directive of 7 April 2016 with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions and any monetary or non-monetary benefits	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Independent financial advice	Articles 24(4) and (7) of MiFID II	Articles 52 to 53 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Best execution	Article 27 of MiFID II	<p>Articles 64 and 66 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive</p> <p>Articles 1 to 12 of RTS 27: Commission Delegated Regulation of 8 June 2016 as regards to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions</p> <p>Article 1 to 5 of RTS 28: Commission Delegated Regulation of 8 June 2016 as regards regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution</p>	ESMA Q&A on investor protection topics
Information to	Articles 24(3) and	Articles 46 of Commission Delegated Regulation of 25 April 2016 as	ESMA final report – Guidelines on

clients	(4) of MiFID II	regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Appropriateness and suitability	Article 25 of MiFID II	Articles 54 to 58 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA guidelines for the assessment of knowledge and competence ESMA guidelines on complex debt instruments and structured deposits ESMA Q&A on investor protection topics
Inducements	Articles 24(7) to (9) of MiFID II	Articles 11 to 13 of Commission Delegated Directive of 7 April 2016 with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions and any monetary or non-monetary benefits	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Remuneration	Article 24(10) of MiFID II	Articles 27 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Client order handling	Articles 24(1) and Article 28 of MiFID II	Articles 67 to 70 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection

			topics ESMA guidelines on MiFID II product governance requirements
Client reporting	Articles 24(4) and 25(6) of MiFID II	Articles 59 to 63 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on complex debt instruments and structured deposits ESMA guidelines for the assessment of knowledge and competence ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Complaints handling	Article 16(2) of MiFID II	Articles 26 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Record-keeping	Articles 16(6) and (7) and Article 25(5) of MiFID II	Articles 72 to 75 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA guidelines for the assessment of knowledge and competence ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Conflicts of interest	Article 9(3), Article 16(3) and Article 23 of MiFID II	Articles 33, 34 and 37 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Recording of telephone conversations	Article 16(7) of	Article 76 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements	ESMA guidelines on product governance

and electronic communications	MiFID II	and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Safeguarding of client assets	Article 16(8) to (10) of MiFID II	Articles 2 to 8 of Commission Delegated Directive of 7 April 2016 with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions and any monetary or non-monetary benefits	ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements
Transactions executed with eligible counterparties	Article 30 of MiFID II	Article 71 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	
Product intervention	Article 40 of MiFIR	Article 19 to 21 of Commission Delegated Regulation of 18 May 2016 with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions Article 19 of Commission Delegated Regulation of 18 May 2016 as regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions	
Information concerning client categorisation	Article 24 (4) of MiFID II	Article 45 and 48 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	ESMA final report – Guidelines on cross-selling practices ESMA guidelines on product governance ESMA Q&A on investor protection topics ESMA guidelines on MiFID II product governance requirements