

Getting started on MiFID II / MiFIR projects: Transparency, transaction reporting and wholesale conduct

The table below sets out some of the key Level 1, Level 2 and Level 3 MiFID II / MiFIR provisions on transparency, transaction reporting and wholesale conduct. 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 provisions	Level 1	Level 2 provisions	Level 3 provisions
Obligation to maintain records	Article 25 of MiFIR	Articles 1 to 14 of Commission Delegated Regulation of 24 June 2016 with regard to regulatory technical standards for the maintenance of relevant data relating to orders in financial instruments	ESMA guidelines on transaction reporting, order record keeping and clock synchronisation under MiFID II ESMA Q&A on MiFIR data reporting
Obligation to report transactions	Article 26 of MiFIR	Articles 1 to 17 of Commission Delegated Regulation of 28 July 2016 with regard to regulatory technical standards for the reporting of transactions to competent authorities	ESMA guidelines on transaction reporting, order record keeping and clock synchronisation under MiFID II ESMA Q&A on MiFIR data reporting
Data reporting service providers	Articles 59 to 63 of MiFID II	Articles 1 to 7 of Commission Implementing Regulation of 22 June 2017 laying down implementing technical standards with regard to the standard forms, templates and procedures for the authorisation of data reporting services providers and related notifications Articles 1 to 9 of Commission Delegated Regulation of 2 June 2016 with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers	
Approved Publication Arrangements	Article 64 of MiFID II	Articles 5 to 21 of Commission Delegated Regulation of 2 June 2016 with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers Articles 84 to 89 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	
Consolidated Tape Providers	Article 65 of MiFID II	Articles 5 to 20 of Commission Delegated Regulation of 2 June 2016 with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers Articles 84 to 89 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	
Approved Reporting Mechanisms	Article 66 of MiFID II	Articles 5 to 13 of Commission Delegated Regulation of 2 June 2016 with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers	
Tick sizes	Article 49 of MiFID II	Articles 1 to 6 of Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards on the tick size regime for shares, depositary receipts and exchange traded funds	ESMA Q&A on market structures topics
Pre-trade transparency – equity instruments	Articles 3 and 4 of MiFIR	Articles 1 to 8 of Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards on 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	ESMA Q&As on MiFID II transparency topics
Volume cap mechanism	Article 5 of MiFIR	Articles 1 to 9 of Commission Delegated Regulation of 13 June 2016 with regard to regulatory	ESMA Q&As on MiFID II transparency topics

		technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations	
Post trade transparency – equity instruments	Articles 6 and 7 of MiFIR	Articles 12, 14 and 15 of Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards on 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	ESMA Q&As on MiFID II transparency topics
Transparency for systematic internalisers and investment firms trading over-the-counter	Articles 14 to 23 of MiFIR	<p>Articles 2, 9 to 13, 15, 17 and 18 of Commission Delegated Regulation with regard to regulatory technical standards on 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</p> <p>Articles 7, 8, 12 and 13 of Commission Delegated Regulation with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives</p> <p>Articles 1 to 9 of Commission Delegated Regulation with regard to regulatory technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations</p> <p>Articles 6 to 15 of Commission Delegated Regulation with regard</p>	ESMA Q&As on MiFID II transparency topics

		to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions	
Pre-trade transparency – non-equity instruments	Articles 8 and 9 of MiFIR	Articles 2 to 6, 13 and 16 of Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives Articles 1 to 6 of Commission Delegated Regulation of 14 August 2017 with regard to package orders	ESMA Q&As on MiFID II transparency topics
Post trade transparency – non-equity instruments	Articles 10 and 11 of MiFIR	Articles 8 to 11 and 13 of Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives	ESMA Q&As on MiFID II transparency topics
Derivatives and obligation to trade on regulated markets	Article 28 of MiFIR	Article 1 to 4 of Commission Delegated Regulation of 13 June 2016 with regard to regulatory technical standards on the direct, substantial and foreseeable effect of derivative contracts within the Union and the prevention of the evasion of rules and obligations	
Portfolio compression	Article 31 of MiFIR	Articles 17 and 18 of Commission Delegated Regulation of 18 May 2016 with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions	
Straight through processing	Article 29 of MiFIR	Articles 1 to 6 of Commission Delegated Regulation of 29 June 2016 with regard to regulatory technical standards specifying the obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing	
Indirect clearing	Article 30 of	Articles 1 to 8 of Commission Delegated Regulation (EU) .../... of 22 September 2017 with regard	

	MiFIR	to regulatory technical standards on indirect clearing arrangements	
Trading obligation procedure	Article 32 of MiFIR	Articles 1 to 6 of Commission Delegated Regulation of 2 May 2016 with regard to regulatory technical standards on criteria for determining whether derivatives subject to clearing obligation should be subject to the trading obligation	
Non-discriminatory clearing access for financial instruments	Articles 35 to 38 of MiFIR	Articles 1 to 21 of Commission Delegated Regulation of 24 June 2016 with regard to regulatory technical standards on clearing access in respect of trading venues and central counterparties Articles 1 to 6 of Commission Delegated Regulation with regard to regulatory technical standards on access in respect of benchmarks	ESMA Q&A on market structures topics