

# Markets in financial instruments

2020/0152(COD) - 24/07/2020 - Legislative proposal

**PURPOSE:** to make targeted adjustments to the requirements of the Markets in Financial Instruments Directive (MIFID II) to facilitate the economic recovery post COVID-19 pandemic.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** [Directive 2014/65/EU](#) on markets in financial instruments (MiFID II) lays down rules for investment firms operating in EU financial markets. These rules determine how investment firms should interact with investors and how they should organise the trading venues.

The rules on investment services have an important role to play in promoting the recapitalisation of European firms in the aftermath of the crisis. In the light of the current COVID-19 pandemic, formal burdens that are not strictly necessary should be removed. The Commission therefore strives to recalibrate investor protection requirements to strike the right balance between a sufficient level of transparency for the client, the highest standards of protection and acceptable compliance costs for firms.

This legislative proposal amending MiFID II is part of a set of measures to facilitate the economic recovery post-COVID-19 pandemic, which includes also legislative proposals amending the [Prospectus Regulation](#) the [Securitisation Regulation](#) and the [Capital Requirements Regulation](#).

**CONTENT:** the proposal primarily aims at providing, for exceptional reasons in the context of the current COVID-19 pandemic, for a streamlined application of the regulatory requirements, keeping high safeguards for retail clients while allowing for more flexibility for wholesale clients and ensures that fully functioning commodity markets can play their important role in the recovery of EU economies.

This legislative proposal also aims to complement the objectives of the Capital Markets Union to diversify market-based sources of financing for European companies and facilitate cross-border investments.

## ***Amendments to information requirements***

The changes to the current regime provide a precise calibration of the rules applicable to retail clients, professional customers and eligible counterparties. The majority of the proposed changes shall consist of relief for professional clients and eligible counterparties, namely:

- the phasing out of paper-based default method: documents shall be provided in electronic format. However, retail clients may opt-in to paper based information;
- as regards the indication of costs and charges, the introduction of an exemption for eligible counterparties and professional clients for services other than investment advice and portfolio management. In addition, in case of distance communication all clients using all services shall be able, under certain conditions, to receive costs and charges information just after the transaction;
- lighter ex-post reporting obligations: these reports shall no longer apply in respect of eligible counterparties; professional clients shall be able to choose whether or not to receive them;

- the temporary suspension of best execution reporting;
- the waiver by professional investors of cost-benefit analysis in the event of a change of product during the course of the relationship;
- the lifting of the product governance requirements for simple corporate bonds with make-whole clauses (which are investor-protective features). The aim of this exemption is to make more plain vanilla corporate bonds available to retail investors.

***Measures affecting energy derivatives markets***

The proposal introduces changes to the regime applicable to commodities with a view to enabling businesses in the real economy to cope with market volatility, while at the same time allowing the emergence of new commodity contracts, which is also important for promoting the international role of the euro.

The proposed amendments recalibrate precisely the position limit regime and the scope of the hedging exemption. They shall not concern agricultural commodities, in particular products for human consumption.