CNMV
COMISIÓN NACIONAL DEL MERCADO DE VALORES

STATEMENT ON THE IMPLEMENTATION OF MIFID II

Madrid, 2 January 2018

The Council of Ministers approved on 29 December a Royal Decree-Law (published in the Official State Gazette of 30 December) that transposes Directive 2014/65/EU (MiFID II) into Spanish law with regard to the regime of trading venues (regulated markets, multilateral trading facilities and organised trading facilities), a key aspect of the Directive.

In relation to the areas that were not covered in said Royal Decree-Law, it is recalled that other parts of the MiFID II-MiFIR regulatory package will also be directly applicable from January 3 2018 (which is the case, for example, of various Regulations), as well as the direct effect that the European Directives can have in certain cases according to the ECJ´s case-law. It should also be noted that, in accordance with such case-law, CNMV must promote the effectiveness of the European Directives within the scope of its competences by interpreting the current national regulations in a manner consistent with the Directive.

Taking into account all the above, CNMV understands that relevant entities, infrastructures and other market participants will adjust their organization and activities in general to the set of rules and obligations emanating from MiFID II-MiFIR as of 3 January 2018.

Likewise, it is reported that CNMV has been designated as the competent authority in Spain regarding the various European provisions related to securities markets that are currently being transposed and adapted (MiFID II, MAR, PRIIPS and Benchmarks).

Finally, in order to facilitate market participants to adapt to this regulatory package, CNMV considers it wise to remember the documents that it has disseminated in recent months with criteria and guidelines in this regard:

- Statements and various other documents related to the intention of complying with certain ESMA guides or consisting of technical guides, criteria, Q&As or summaries of the meetings of the implementation group of which sector representatives are part, which can help entities effectively adapt to the aforementioned regulatory package. These documents are listed in annex I.

- A statement intended for entities that may be interested and in general for market participants on a series of actions related to authorisations of new figures or services or communications to be submitted to the supervisor. This statement, which includes a detailed table, is attached as annex II.

- In addition, CNMV has published all the regulations and relevant information on MiFID II in a specific section on its website: http://www.cnmv.es/portal/MiFIDII_MiFIR/MapaMiFID.aspx

ANNEX I

LIST OF CRITERIA AND QUESTIONS AND ANSWERS DOCUMENTS PUBLISHED BY CNMV IN RELATION TO MIFID II

- Public statement on CNMV's intention to comply with the ESMA guidelines on MiFID II product governance requirements
  http://cnmv.es/portal/verDoc.axd?t={e885ad77-b855-4b69-bf94-e470f1238343}

- Public statement on CNMV's intention to comply with the ESMA guidelines on complex debt instruments and structured deposits
  http://www.cnmv.es/docportal/MiFIDII_MiFIR/DirectricesProductosComplejos_en.pdf

- Public statement on CNMV's intention to comply with the ESMA guidelines for cross-selling practices within the scope of its competences
  http://www.cnmv.es/docportal/MiFIDII_MiFIR/VentaCruzada_en.pdf

- Public statement on CNMV's intention to comply with the ESMA guidelines on knowledge and skills
  http://cnmv.es/docportal/MiFIDII_MiFIR/EvaluacionConocimientosCompetencias.pdf (Spanish)

- Technical Guide 4/2017 on the knowledge and skills of the staff who inform and advise
  http://www.cnmv.es/DocPortal/Legislacion/Guias-Tecnicas/GuiaTecnica_2017_4_en.pdf

- List of titles or certificates that meet the requirements of section 8 of the Technical Guide 4/2017 on the knowledge and skills of the staff who inform and advise
  http://cnmv.es/portal/Titulos-Acreditados-Listado.aspx?lang=en

- Questions and answers on the implementation of the MIFID II directive (Last update 22.12.2017)
  http://www.cnmv.es/docportal/Legislacion/FAQ/FAQ_MiFIDII.pdf (Spanish)

- CNMV Statement on the Guidelines for the calibration of volatility management mechanisms and the publication of trading interruptions
  http://www.cnmv.es/Portal/verDoc.axd?t={740b1a2b-2c81-41e5-baae-54541550f030} (Spanish)

  http://www.cnmv.es/Portal/verDoc.axd?t={40d50da9-1223-4932-b4d2-7c1c512b6a71} (ESMA's Guideline)

- CNMV's agreement on the authorization on deferred publication regime for details of transactions on non-equity instruments (Art. 11 MIFIR)
  http://www.cnmv.es/Portal/verDoc.axd?t={4e1095d5-fc60-4bc3-b35c-1aa074781ccb}

- Statement regarding the limits on the maximum positions that a person can hold in commodity derivative contracts
  http://www.cnmv.es/portal/verDoc.axd?t={d8c86b01-730c-4afe-956c-f883bc30646d}

- Publication of the instructions for the notification of the exception by ancillary activity
  http://www.cnmv.es/portal/verDoc.axd?t={d9172356-8d53-46f8-b91d-aa56a87ff364}

- Application of MiFID and MiFIR in aspects related to markets and financial instruments (Annex 2)
  http://www.cnmv.es/portal/verDoc.axd?t={43c1b212-ab3a-4ed9-943b-180e279d7887}

- ESMA communications or adoption of technical development standards at European level:

  - The CNMV informs about the publication of the opinion of ESMA with regard to the concept of financial instrument admitted or traded in a trading venue (TOTV)
    http://cnmv.es/Portal/verDoc.axd?t={01ff8870-6467-495e-af8a-0da4b19163aa} (Spanish)

  - The CNMV informs of the Official Publication of the Level Two Measures Regarding MiFID II and MiFIR
    http://www.cnmv.es/Portal/verDoc.axd?t=%7ba01161e6-60e8-4482-ada6-c1331d8e39c8%7d

  - ESMA statement to support the smooth introduction of the LEI requirements
    http://cnmv.es/Portal/verDoc.axd?t={ae746ea2-1fdb-4a3f-b8d9-9af14d05ff87}

- Information to the sector on data reporting (instrument reference data and operations report), both referring to documents (mainly instructions) and ESMA opinions, as well as regarding implementation at national level:

  - Communication from CNMV on the Guidelines on Transaction Reporting, Order Record Keeping and Clock Syncronisation under MiFID II and MiFIR
    http://www.cnmv.es/portal/verDoc.axd?t={d26b8508-6a4c-4055-b03b-a7582d8ecdd3}

  - ESMA Publishes the Instructions on Acces and Download of Firds Files (Financial Instruments Reference Data)
    http://www.cnmv.es/portal/verDoc.axd?t={56bb0d9f-8fa9-4588-87ae-cac42ab0fa2d}

  - ESMA Reminds Companies of the Importance of Obtaining the LEI Code Before 2018
    http://www.cnmv.es/portal/verDoc.axd?t={4235b5e0-cca3-487f-915f-91556f367eab}
  - Test Plan for the System for Transaction Reporting under the New Requirements of MiFIR, Score/CNMV
    http://www.cnmv.es/portal/verDoc.axd?t={3e7b83ea-248e-4367-b8c6-39f9e3638304}
  - CNMV Updates the Guide for Transaction Reporting under MiFID II/MiFIR
    http://www.cnmv.es/portal/verDoc.axd?t={c6f21c95-2a54-4a76-a44e-c4b2f6c45ac3}
  - Update of ESMA Guidelines on Transaction Reporting and Technical Reporting Instructions
    http://www.cnmv.es/portal/verDoc.axd?t={66263f5b-01d1-44ea-a480-f5d251a99ff6}
  - Operational Guide for Transaction Reporting under MiFIR
    http://www.cnmv.es/portal/verDoc.axd?t={4d040b74-991a-4617-89be-0c80040fca02}
  - Relevant information about the LEI Code (Legal Entity Identifier) in Spain
    http://www.cnmv.es/portal/verDoc.axd?t={faaf1012-97c9-459a-8347-d79d2b2b18db} (Spanish)

- CNMV Updates the Guide for Transaction Reporting under MiFID II/MiFIR
  http://www.cnmv.es/portal/verDoc.axd?t={c39f521e-2621-4a27-8764-75c3c8471274}

- Statement by CNMV on ESMA measures to facilitate the introduction of the LEI code for clients that are legal persons under Article 26 of MIFIR (Transaction Reporting)
  http://www.cnmv.es/portal/verDoc.axd?t={a5f3adoc-77f7-4b4b-9806-a583803bd03c}

- ESMA publishes the instructions for accesing and downlading FIRDS files (Results of the Transparency and DVC Waiver Usage Calculations)
  http://www.cnmv.es/portal/verDoc.axd?t={9dee3dd7-1447-4e37-8b76-4ad079822793}

- ESMA updates its CFI validations for MiFID II
  http://www.cnmv.es/portal/verDoc.axd?t={79f83da2-9e72-45d7-81c8-13eef19806d8}

OTHER RELEVANT INFORMATION

Meetings of the MiFID II Technical Implementation Group – Publication of summaries

Six meetings have been held with the Technical Implementation Group consisting of representatives of the Spanish Banking Association, the Spanish Confederation of Savings Banks, financial institutions, market infrastructures and issuers since November 2015. A summary is prepared and published after each meeting.
http://cnmv.es/Portal/MiFIDII_MiFIR/Mercados-Grupo-Implementacion.aspx?lang=en

CNMV International Regulation Seminars

International Regulation Seminars have been held in 2014, 2015, 2016 and 2017. The material and videos used are available on the website.

http://cnmv.es/Portal/AlDia/VideosCorporativos.aspx

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ANNEX II

APPLICATION OF MiFID II/MiFIR, ON ISSUES RELATED WITH MARKETS AND FINANCIAL INSTRUMENTS

UPDATE ON THE ANNEXED TABLE as of 26th December and 18th December 2017. Amendments highlighted in yellow

16th November 2017

The CNMV Secondary Markets Directorate has prepared a table, attached to this communication, which identifies the most relevant actions in relation with MiFID II[1] and MiFIR[2] (authorization processes, notifications, requests for exemptions, etc.) relating to markets and financial instruments.

The aim is for the information contained in this table to serve as a guide for market participants and other stakeholders for the purpose of carrying out tasks in preparation for the upcoming application of this regulatory framework and its developing rules, some of which are directly applicable. The table includes CNMV e-mail addresses to contact in each case.

Likewise, you are hereby informed that CNMV published on 14th November 2017 the agreement on the deferred publication regime for details of transactions on non-equity instruments. Shortly, a decision will be adopted on applicable limits to positions on derivatives instruments on commodities.

[1] Directive (EU) Nº 2014/65, of the European Parliament and the Council, of 15 May 2014, and Directive (EU) Nº 2016/1034, of the European Parliament and the Council, of 23 June 2016, that amends the previous Directive.

[2] Regulation (EU) Nº 600/2014, of the European Parliament and the Council, of 15 May 2014, and Regulation (UE) Nº 2016/1033, of the European Parliament and the Council, of 23 June 2016, that amends, among others, the previous Regulation.

IDENTIFICATION OF ACTIONS FOR THE APPLICATION OF CERTAIN MiFID/MiFIR PROVISIONS, ON ISSUES RELATED WITH MARKETS AND FINANCIAL INSTRUMENTS

Type of action	Content	Action from requester	Legal reference	Comment	Contact at CNMV to clarify doubts
Authorisation of activity **Trading venues**	Authorisation of the activity as trading venue applicable to regulated markets, multilateral trading facilities, organised trading facilities (OTFs) and SME growth markets	Submission of the authorisation request through CNMV's Official Register	Directive 2014/65/EU (MiFID II), Art. 5 and Art. 44	The coordination of the file is arranged through the CNMV Markets Directorate General	mifid.mercados@cnmv.es
Authorisation of activity **Data Reporting Services Provider (DRSP)**	Authorisation of activity as data reporting services provider (APA, ARM, CTP)	Submission of the authorisation request through CNMV's Official Register	Directive 2014/65/EU (MiFID II), Art. 61	The coordination of the file is arranged through the CNMV Markets Directorate General	mifid.drsp@cnmv.es
Notification of activity **Systematic Internaliser**	Notification of voluntary adoption of the sytematic internaliser regime	Submission of the notification through CNMV's Official Register	Regulation 600/2014 (MiFIR), Arts. 15.1 and 18.4	Access to the template: Internalizador sistemático (*) Temporary solution until having a specific procedure through the Virtual Office	mifid.mercados@cnmv.es

Type of action	Content	Action from requester	Legal reference	Comment	Contact at CNMV to clarify doubts
Notification of activity **Algorithmic trading**	Notification of activity as investment firm engaged in algorithmic trading	Submission of the notification through CNMV's Official Register	Directive 2014/65/EU (MiFID II), Art. 17	Access to the template: Algorithmic trading (*)Temporary solution until having a specific procedure through the Virtual Office	mifid.mercados@cnmv.es
Notification of activity **DEA services provision**	Notification of the activity as investment firm that provides services of direct electronic access to the markets (DEA)	Submission of the notification through CNMV's Official Register	Directive 2014/65/EU (MiFID II), Art. 17.5	Access to the template: DEA services provision (*)Temporary solution until having a specific procedure through the Virtual Office	mifid.mercados@cnmv.es
Notification of activity **Ancillary activity exemption**	Notification of use of the exemption due to the fact that the trading activity in commodity derivatives is an ancillary activity to the main business	Submission of the notification form through CNMV's website	Directive2014/65/EU (MiFID II), Art. 2.1.j)	Access to the instructions: Ancillary activity exemption	mifid.mercados@cnmv.es
Authorisation for the application of exemption to the limits on hedging positions	Request for exemption from the application of position limits in commodity derivatives which reduce risks directly related with commercial activities	Submission of the notification form through CNMV's website	Directive 2014/65/EU (MiFID II), Art. 57.1 and RD (EU) 2017/591, Arts. 7 and 8	The instructions will be published as soon as possible	mifid.mercados@cnmv.es

Type of action	Content	Action from requester	Legal reference	Comment	Contact at CNMV to clarify doubts
CNMV's Decision **Position limits**	CNMV's decision on setting the position limits in commodity derivatives instruments	-	Directive 2014/65/EU (MiFID II), Arts. 57.1 and 57.4	Access to the statement regarding the limits on the maximum positions	mifid.mercados@cnmv.es
CNMV's Decision **Post-trade transparency regime for non-equity instruments**	CNMV's decision on the general framework for the deferred publication regime for the publication of transactions.	-	Regulation 600/2014 (MiFIR), Arts. 11 and 21.4	Access to the decision adopted by CNMV through this link: Deferrals Regime	mifid.mercados@cnmv.es
CNMV's Decision **Commodity Derivatives**	Procedure for the daily reporting of positions in OTC contracts economically equivalent to financial commodity derivatives traded on trading venues	Submission of files through CNMV's FTP facility or CIFRADOC system (for those users of this service)	Directive 2014/65/EU (MiFID II), Art. 58.2	The instructions will be published as soon as possible	mifid.mercados@cnmv.es
Authorisation for the application of pre-trade transparency waivers in equity and equity-like instruments	Trading venues will request the application of the pre-trade transparency waivers regime	Submission of the authorisation request through CNMV's Official Register	Regulation 600/2014 (MiFIR), Art. 4.4	Currently in progress in accordance with ESMA's agreed calendar	mifid.mercados@cnmv.es

Type of action	Content	Action from requester	Legal reference	Comment	Contact at CNMV to clarify doubts
Authorisation for the application of pre-trade transparency waivers in non-equity instruments	Trading venues will request the application of the pre-trade transparency waivers regime	Submission of the authorisation request through CNMV's Official Register	Regulation 600/2014 (MiFIR), Art. 9.2	Currently on progress in accordance with ESMA's agreed calendar	mifid.mercados@cnmv.es
Authorisation for the application of the exemption from (deferral of) post-trade transparency in equity and equity-like instruments	Trading venues will request the application of the regime for deferral of post-trade transparency	Submission of the authorisation request through CNMV's Official Register	Regulation 600/2014 (MiFIR), Art. 7	Request submitted to the CNMV Markets Directorate General	mifid.mercados@cnmv.es
Application of the exemption from (deferral of) post-trade transparency in non-equity instruments	Pursuant to the content of the CNMV's communiqué dated xx xx 17 on the authorisation of the deferred publication regime, the trading venues shall notify CNMV of their intended use of the deferred publication regime	Submission of the notification through CNMV's Official Register	Regulation 600/2014 (MiFIR), Art. 11	The notification will be submitted to the CNMV Markets Directorate General	mifid.mercados@cnmv.es