

# **MiFID 2**

**MAIN PROVISIONS OF  
THE DIRECTIVE**

**January 2018**

# **COME INTO FORCE**

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The new European regulation on markets in financial instruments (MIFIR and MIFID2) will come into force on January 3, 2018.

It applies to:

- investment services and products distributed by investment service providers in member countries of the European Economic Area (EEA);
- all clients of EEA institutions, with enhanced protection and increased information for retail clients, and protection and information on a more limited scale for professional clients and eligible counterparties.

It is accompanied by the PRIIPS regulation whose aim is to standardise information relating to packaged products for retail clients.

## **MIFID**

Directive on markets in financial instruments

## **CLIENT'S CATEGORIZATION**

Retail clients, professional clients, eligible counterparties

## **INVESTMENT SERVICES**

Portfolio management, investment advice, reception and transmission of orders

## **EUROPEAN ECONOMIC AREA**

28 European Union member States as well as Norway, Iceland and Liechtenstein

## **PRIIPS**

Regulation on key information documents for packaged retail and insurance-based investment products coming into force on January 1, 2018

## **MIFIR**

Regulation on markets in financial instruments

## ■ REGULATION ON MARKETS IN FINANCIAL INSTRUMENTS

The European Union's objective is to create an integrated market in EU financial services. To this end, the Union adopted, in 2001, a Financial Services Action Plan, which has led to several far-reaching directives, including the "Prospectus Directive", the "Transparency Directive" and the "Market Abuse Directive", chief among them being, without doubt, the MiFID directive, a new version of which should come into effect on January 3, 2018.

This directive introduces major changes based on 4 themes: investors protection, internal governance, market structure, transparency and reporting.

## ■ CREATING COMPETITION BETWEEN TRADING VENUES

In most EU countries, stock market trading has traditionally been concentrated on a regulated market. Since the first version of the MiFID directive (entered into force on November 1, 2007) alternative trading routes have been recognized. Indeed, these regulated markets can now compete with organized trading platforms known as Multilateral Trading Facilities (MTF), "systematic internalisers" (whereby the firm sets up a trading platform to match and execute customer orders internally and directly) and, as of 2018 with the entry into force of the MiFID 2 directive, Organized Trading Facilities (OTF) which consist of a multilateral system dedicated solely to non-equity instruments.

These various trading venues will coexist in the EU area, creating competition that may further improve the transparency of the financial markets and the security of transactions.

## ■ THE PRINCIPLE OF "BEST EXECUTION"

Barring specific instructions from the customer, the banks must institute mechanisms that seek the best conditions for executing orders taking into account price, speed and the likelihood of execution.

In practice, we already applied this principle before the MiFID directive came into force in

2007 apply this principle and have always taken care to execute your orders to the best of your interests. To date, we will continue to apply this principle and inform you about the criteria we use to select our brokers and execute your orders.

## ■ THE PRINCIPLE OF CLIENT SEGMENTATION AND INVESTOR PROTECTION

The principle of the MiFID2 Directive remains the progressive degree of protection for clients according to their categorization.

### Individual clients (or retail clients)

Benefit from the highest degree of protection. We shall not offer you products or services that we intend for professional clients if you are categorised as a retail client.

### Professional clients

Receive a lesser degree of protection because they are considered to possess a solid experience and understanding of the financial markets.

### Eligible counterparties

The legislation gives eligible counterparties even lesser degree of protection since they are described as the alter ego of the financial institutions. They may be partner banks or insurance companies, for example.

This increased protection will primarily result in an increase in the amount of information that we send to you and more precise verification of the suitability of the products and services that we recommend to you.

**At your initiative, you may opt for a different categorisation.**

Our obligation is to keep updated information regarding your situation in order to continue to offer you the best services and fulfill our regulatory obligations.

**For further information on the MiFID2 Directive, your classification or the objective of your account please contact your relationship manager.**

## ■ KEEPING YOU BETTER INFORMED

The information that we send to you will be extended and will include new elements at different levels of our relationship. Thus, for example, we will provide a greater degree of description of our products and services, greater transparency regarding our fees and charges, our broker selection policies and the risk exposure of certain investments, etc. This will be in addition to the information that you are already receiving.

### **When entering into a relationship or if you are already a client**

We have chosen to provide you with the best support and offer you periodic reviews of the suitability of our recommendations to your risk profile in the case of advisory agreements. Consequently, in order to meet the regulation<sup>1</sup>, we are required to systematically formalise a services agreement for all our investment services: you sign a contract corresponding to the investment service you have chosen, which also details the costs, charges and retrocessions of commissions related to the services offered. We also inform you that we have chosen the status of non-independent adviser which enables us to continue to freely offer you a wide range of products including those resulting from our Societe Generale expertise.

### **When providing advice or executing orders**

- If you are a retail client, we send you the KID (Key Information Document), a standardised 3-pages document that has to be issued to you prior to any investment decision concerning a packaged investment product<sup>2</sup>.

- We send you the results of the suitability or appropriateness tests.
- We are transparent about all the fees received by the different players over the whole manufacturing and distribution chain.

### **During the relationship**

We provide you with new information:

- a report enabling you to monitor the suitability of your portfolio to your risk profile, in the case of investment advisory and discretionary management services,
- new alerts to inform you about the depreciation of your assets.

## ■ VERIFICATION OF THE SUITABILITY AND APPROPRIATENESS OF PRODUCTS AND SERVICES

The MiFID2 Directive imposes a precise framework on financial institutions requiring them to make sure that the products and services they recommend fully match the investor's needs and that the investor has a sound understanding of every aspect of the investment. We have always taken the greatest care to ensure that recommended products and services are perfectly suited to your requirements.

Thus, we view the MiFID 2 regulation framework as an opportunity to gain an even better understanding of our clients. From this perspective, your relationship manager will continue to talk with you to pinpoint your needs based on your assets, your objectives and plans and, more generally, your overall circumstances.

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<sup>1</sup> Article 58 Retail and Professional Client agreements (Article 24(1) and 25(5) of Directive 2014/65/EU). Investment firms providing any investment service or the ancillary service referred to in Section B(1) of Annex I to Directive 2014/65/EC to a client after the date of application of this Regulation shall enter into a written basic agreement with the client, in paper or another durable medium, with the client setting out the essential rights and obligations of the firm and the client. Investment firms providing investment advice shall comply with this obligation only where a periodic assessment of the suitability of the financial instruments or services recommended is performed.

<sup>2</sup> Includes, investment products such as investment funds, life insurance policies with an investment element, structured products and structured deposits, financial instruments issued by special purpose vehicles that conform to the definition of PRIIPs.

In brief, what is changing in order to better protect you.

- The investor profile questionnaire is enhanced so that we can get to know you better and provide you with better services, assess your risk appetite and your capacity to bear losses. If necessary, your Private Banker will contact you in order to update your assessment.
- The suitability test<sup>3</sup> is extended to all advisory situation
- Your knowledge and experience is assessed over a broader scope of complex products<sup>4</sup>.
- For each product, the manufacturers and the distributors of financial products target a category of clients to meet its specific needs, based on pre-established criteria.

## ■ INCREASED TRANSPARENCY VIS-À-VIS REGULATORS

In order to limit market abuse<sup>5</sup>, we have the regulatory obligation to report all transactions on financial instruments to our entity's local regulator. If you are an natural person, the identifier required, apart from your surname, forename and date of birth, will depend on your nationality (for example, passport, ID card or national identifier number). For a legal entity client, the identifier to be reported will correspond to the LEI (Legal Entity Identifier)<sup>6</sup>. If a representative acts on behalf of a client, we are also required to report their surname, forename and identifier. Your interactions with our advisers and private bankers will be recorded and kept for between 5 and 7 years.

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<sup>3</sup> Suitability test: assessment of the suitability of the advice and services provided in light of your investor profile, your financial situation and your investment objectives, your knowledge and experience of the financial products.

<sup>4</sup> Complex products: they now also include bonds, money market products, funds if these products contain a derivative or if their structure makes it difficult for the investor to understand the risk incurred.

<sup>5</sup> Market Abuse is a concept that encompasses unlawful behaviour in the financial markets, such as insider dealing, unlawful disclosure of inside information and market manipulation. Such behaviour prevents full and proper market transparency, which is a prerequisite for trading for all economic actors in integrated financial markets.

<sup>6</sup> LEI: the Legal Entity Identifier is a unique identifier for operators on the financial markets and is based on the international standard ISO 17442.

# INFORMATION ON THE CATEGORISATION OF CLIENT AND THEIR RESULTING RIGHTS

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## YOU ARE AN INDIVIDUAL CLIENT

**As an Individual Client you enjoy the fullest protection under the MiFID regulation on markets in financial instruments.**

## YOU ARE AN INDIVIDUAL CLIENT AND WISH TO BECOME A PROFESSIONAL CLIENT

You can ask to be categorised as a Professional Client, either generally for specific types of transactions or for a single transaction, if you have sufficient competence, experience and knowledge to take your own investment decisions and understand the risks involved.

You must also meet at least two of the following criteria:

- you have carried out on average ten transactions of a significant size each quarter for the last four quarters in the markets concerned;
- the value of your portfolio of financial instruments (including bank deposits) is greater than 500,000 euros;
- you have held, or used to hold, for at least one year a professional position in the financial sector requiring knowledge of the transactions or services concerned.

You may waive the benefit of the detailed rules of conduct only where the following procedure is followed:

- you must state in writing to your relationship manager that you wish to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product,
- the bank must give you a clear written warning of the protections and investor compensation rights you may lose;
- you must then state in writing, in a separate document from the contract, that you are aware of the consequences of losing such protections.

If you are eligible to be categorised as a Professional Client, you will be considered to have the necessary experience, knowledge and competence regarding the transactions and services concerned (and for which you will be considered to be a Professional Client) and therefore to be able to correctly evaluate the risks involved.

You will then enjoy a lesser degree of protection, in those transactions for which you have asked to be considered a Professional Client, than that afforded to Individual Clients under the MiFID regulation.

As a result:

1. in discretionary asset management or advisory investment services, you will be considered to have the necessary level of experience and knowledge to understand the risks inherent in the management of your portfolio or in the transactions recommended by the bank within the limit of your investment objectives and your capacity to incur certain risks;
2. in other investment services, the bank will not be obliged to evaluate the appropriateness of the investment products or services that you request or that we may propose to you;
3. the bank will also be exempted from the obligation to provide you with certain information regarding the bank, its services, financial instruments, the preservation of financial instruments and of clients' funds and regarding matters related to fees and commissions, that it must normally communicate to Individual Clients;
4. the bank will also be exempted from certain obligations related to reporting on the execution of your orders or the management of your portfolio.

# INFORMATION ON THE CATEGORISATION OF CLIENTS AND THEIR RESULTING RIGHTS

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## YOU ARE A PROFESSIONAL CLIENT

**As a Professional Client you are assumed to have the necessary knowledge and experience for the transactions and services concerned.**

As such:

1. in discretionary asset management or advisory investment services, you will be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the management of your portfolio or in the transactions recommended by the bank;
2. in the specific context of investment advisory services, you will also be assumed to have the financial resources to incur the risks associated with the recommended investments;
3. regarding other investment services, you will also be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the investment products or services proposed by our bank or requested by you, such that the bank will not have to evaluate their appropriateness;
4. the bank will also be exempted from the obligation to provide you with certain information regarding the bank, its services, financial instruments, the preservation of financial instruments and of clients' funds and regarding matters related to fees and commissions, that it must normally communicate, under the rules of conduct, to Individual Clients;
5. the bank will also be exempted from certain obligations related to reporting on the execution of your orders or the management of your portfolio.



## **YOU ARE A PROFESSIONAL CLIENT AND WISH TO BECOME AN INDIVIDUAL CLIENT**

You can ask to be categorised as an Individual Client, either generally for specific types of transactions or for a single transaction. You must make the request in writing to your client relationship manager to allow consideration of the possibilities for an agreement specifying the services, transactions and types of product for which Information on the categorisation of clients and their resulting rights you wish to be considered an individual Client. For the transactions where you are considered to be an Individual Client you will enjoy the fullest protection under the MiFID regulation.

As a result:

1. in discretionary asset management or investment advisory services, you will no longer be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the transactions that the bank may recommend or undertake;
2. in the specific context of investment advisory services, you will no longer be assumed to have the financial resources to incur the risks associated with the recommended investments;
3. regarding other investment services, you will no longer be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the services and transactions concerned;
4. you will have access to all the information required under the rules of conduct, notably concerning the bank, its services, financial instruments, the preservation of financial instruments and clients' funds, and matters related to fees and commissions.

# **INFORMATION ON THE CATEGORISATION OF CLIENTS AND THEIR RESULTING RIGHTS**

## **YOU ARE AN ELIGIBLE COUNTERPARTY**

**As an Eligible Counterparty, you enjoy the least protection under the MiFID régulation. When the bank provides the service of own-account trading, order execution on clients' behalf, reception and passing of client orders, or any auxiliary services directly related to the above transactions, it is subject to neither the rules of conduct for providing investment services, nor to certain rules regarding the processing and execution of your orders.**

**For other services or transactions, you will be assumed to be a Professional Client.**

## **YOU ARE AN ELIGIBLE COUNTERPARTY AND WISH TO BECOME A PROFESSIONAL CLIENT**

You can ask to be categorised as a Professional Client, either generally for specific types of transactions or for a single transaction, i.e. as a client with the necessary experience, knowledge and competence regarding the transactions and services concerned and able to correctly evaluate the risks involved.

You must make the request in writing to your client relationship manager to allow consideration of the possibilities for an agreement specifying the services, transactions and types of product for which you wish to be considered a Professional Client.

If you are considered a Professional Client, you will then enjoy greater protection under the MiFID regulation in those transactions where you are treated as a Professional Client.

Notably, the rules of conduct in the provision of investment services and rules on the treatment and execution of orders will apply.

However:

1. in discretionary asset management or investment advisory services, you will be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the management of your portfolio or in the transactions recommended by the bank;
2. in the specific context of investment advisory services, you will also be assumed to have the financial resources to incur the risks associated with the recommended investments;
3. regarding other investment services, you will also be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the investment products or services proposed by our bank or requested by you, such that the bank will not have to evaluate their appropriateness;
4. the bank will also be exempted from the obligation to provide you with certain information regarding the bank, its services, financial instruments, the preservation of financial instruments and of clients' funds and regarding matters related to fees and commissions, that it must normally communicate, under the rules of conduct, to Individual Clients;
5. the bank will also be exempted from certain obligations related to reporting on the execution of your orders or the management of your portfolio.

## **YOU ARE AN ELIGIBLE COUNTERPARTY AND WISH TO BECOME AN INDIVIDUAL CLIENT**

You can ask to be categorised as an Individual Client, either generally for specific types of transactions or for a single transaction.

You must make the request in writing to your client relationship manager to allow consideration of the possibilities for an agreement specifying the services, transactions and types of product for which you wish to be considered an Individual Client.

For the transactions where you are considered to be an Individual Client you will then enjoy the fullest protection under the MiFID regulation.

As such, notably:

1. in discretionary asset management or investment advisory services, you will no longer be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the transactions that the bank may recommend or undertake;
2. in the specific context of investment advisory services, you will no longer be assumed to have the financial resources to incur the risks associated with the recommended investments;
3. regarding other investment services, you will no longer be assumed to have the necessary level of experience and knowledge to understand the risks inherent in the services and transactions concerned;
4. you will have access to all the information required under the rules of conduct, notably concerning the bank, its services, financial instruments, the preservation of financial instruments and clients' funds, and matters related to fees and commissions.

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