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Investment funds: Get ready for MiFID II

MiFID II will come into force soon: what is the impact on the investment fund industry?

Since 2007, the aim of the Markets in Financial Instruments Directive (MiFID) has been to establish a **regulatory framework for the provision of investment services in financial instruments** and for the operation of regulated markets by credit institutions and market operators within the European Union financial markets.

MiFID II revises and completes the rules currently in place. In particular, the scope of regulated products and activities is extended.

Towards a more comprehensive and stringent legal framework

MiFID II aims at establishing a **safer, sounder, more transparent** and **more responsible** financial system, in particular by:

- extending market transparency,
- strengthening investor protection,
- providing partially harmonised rules for the access of third country firms to the EU market,
- ensuring harmonised administrative sanctions and effective cooperation between authorities,
- improving competition in trading and clearing of financial instruments.

Investment funds, their management companies, alternative investment fund managers (AIFM) and depositaries are in principle excluded from the scope of MiFID II

However, MiFID firms are servicing the entire fund industry up and down the value chain. MiFID II is therefore not without impact on investment funds, management companies and AIFMs.

When will MiFID II become applicable?

National transposition of the recast directive is due to be completed by 3 July 2017 at the latest. The new MiFID II regime will be applicable as from 3 January 2018 onwards.

Main impact on the investment fund industry

Product governance

- product approval process
- target market identification and assessment
- rules on conflicts of interests

Inducements and payment for research

- ban or strengthened conditions in relation to the receipt and retention of fees, commission, monetary and non-monetary benefits
- handling of unbundled research payments

Client information

- full transparency on all costs (including transaction costs) related to products and services
- extension of retail information requirements to professionals
- standardisation and exchange of manufacturers and distributors data
- information flows

Complex and non-complex products

- extension of the scope of complex products
- increase in products which cannot be sold on “execution only”

Other key features and new requirements of the MiFID II regime may directly or indirectly affect the investment fund industry, for instance in terms of investor protection, transparency or reporting.

How can we assist you?

Analysis of the impact of the regime on a given structure

- Impact assessment of key provisions of MiFID II and gap analysis
- Distribution network mapping and inducements impact analysis
- Support in identification and definition of the target market

Review/drafting of documentation

- Review/drafting of appropriate disclosures in prospectuses
- Review/drafting of distribution and investment management agreements
- Review of marketing materials

Procedures and implementation

- Creation of checklists for client information compliance
- Support services in relation to fund data creation and sharing
- Review/drafting of procedures
- Design and implementation of MiFID II-compliant target distribution models

Training sessions provided on request

Arendt & Medernach works hand in hand with Arendt Regulatory & Consulting to provide an approach combining legal advice and regulatory and compliance services. This approach, which is unique in Luxembourg, meets the growing needs of clients for complete support and provides them with true benefits and efficiency.

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