

Regulatory News Alert

MiFID II

11 July 2017

Draft law 7157 implementing MiFID II has been published

On 3rd July 2017, the Luxembourgish Chamber of Deputies released the much anticipated draft law 7157 transposing Directive 2014/65/EU on markets in financial instruments (MiFID II) and implementing the Regulation 600/2014/EU on Markets in Financial Instruments (MiFIR). Most of the topics related to the later will be regulated under a specific law, while the provision of investment services will still be covered by the law of 5th April 1993 related to the financial sector (LSF), modified to align with the new requirements.

Key provisions

Among the main updates of the proposed new regulation, we observed the following choices:

- **Third country regime (article 32-1 of the amended LSF):**

The draft law proposes to 'opt in' to the MiFID II Article 39 branch regime: a third-country firm intending to provide investment services or perform investment activities to retail clients or professional on demand will be required to establish a branch in Luxembourg. The establishment of such a branch should be made in accordance with the conditions listed in the Directive, transposed as such in the draft law.

On the other hand, the draft law further opens the door for investment firms targeting professional per se or eligible counterparties. In the absence of an equivalence decision of the European Commission, required for such firms to benefit from an EU passport when serving those clients, a third-country firm can also be allowed to serve them if three conditions listed in the draft law are met.

- **Market structure (article 29-9 of the amended LSF):**

3 new Financial Sector Professionals (FSP) statuses are introduced by the draft law to implement the new market structure rules under MiFIR

- Approved publication arrangement (APA)
- Consolidated tape provider (CTP)
- Approved reporting mechanism (ARM)

- **Cancellation of orders (article 7-9 of the draft law):**

The draft law allows regulated markets to adjust their fees for cancelled orders according to the length of time for which the order was maintained and to calibrate the fees to each financial instrument to which they apply.

Next step

The draft law has been released before the Parliamentary summer break, leaving time for the new regulation to go through the regular process. We therefore expect a vote and a publication in the Memorial A in early Q4 2017.

How can Deloitte help?

Deloitte actively monitors MiFID II developments and subsequent publications on an ongoing basis. We carefully analyse all relevant published documents in order to identify any changes and to provide the most updated view to our clients.

We offer to organize an informal workshop in your offices, to answer your questions, and discuss the latest regulatory updates as well as potential operational impacts and remediation scenarios.

Please do not hesitate to contact us, as we would be more than happy to prepare a workshop tailored to your requirements.

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