

Nathaniel Lalone Discusses MiFID II With *Practice Insight*

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Financial Services partner Nathaniel Lalone spoke with *Practice Insight* on several issues relating to the January implementation of the revised Markets in Financial Instruments Directive (MiFID II). Noting the creative lengths brokers are going to in order to continue providing direct electronic access (DEA) to non-EU clients, the article reports added confusion from the fact that not all EU Member States are taking a uniform approach to implementing guidance from European Securities and Markets Authority (ESMA). Nate stated, "Each approach in isolation is manageable, but if a trader in Singapore is using three different brokers to access five different exchanges—which is plausible—and they are either telling them it's not actually DEA they're providing, or are each asking for different information, then that's a problem. Markets need consistency and uniformity." He also noted that the ever-changing technology is blurring how market participants define DEA. "It's inherently challenging for MiFID II to grapple with all this technology because there's inevitably a point where the law simply can't adequately distinguish between different types of connectivity."

Another notable challenge has been the widely inconsistent approaches to submitting transaction reports, which are a key aspect of the transparency goals of MiFID II. As a result of the large amounts of data, Nate stated, "Firms filling out transaction reports are thinking 'this isn't relevant to our business, maybe we should include some other information instead.' Multiply the number of business models by 65 data fields and it's clear you can't straitjacket them into a one-size-fits-all form." ("[MiFID II: How to Provide Non-EU Clients With DEA](#)," March 1, 2018 and "[MiFID II: Market Reveals Data Reporting Sticking Points](#)," March 1, 2018)

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