

## BROKER-DEALER

### **SEC Proposes to Modernize Infrastructure for NMS Securities Market Data**

On February 14, the Securities and Exchange Commission proposed to modernize the infrastructure for the collection, consolidation and dissemination of market data for exchange-listed national market system (NMS) securities, including by expanding the content of included NMS market data and introducing a decentralized consolidation model with competing data consolidators.

The rules that govern the content and dissemination of NMS market data have not be updated since the 1970s. The proposal will be published on SEC.gov and in the *Federal Register*. There will be a 60-day comment period following publication.

More information from the SEC is available [here](#).

### **FINRA Requests Comment on Enhancements to the Continuing Education Program for Securities Industry Professionals**

On February 18, the Financial Industry Regulatory Authority (FINRA) issued a regulatory notice seeking comment on a proposal to implement recommendations of the Securities Industry/Regulatory Council on Continuing Education, enhancing the continuing education requirements for securities industry professionals.

Specifically, the proposal would change the regulatory element to provide annual training, update the content and instructional formats, publicize the learning topics in advance and enhance the related management systems. The firm element also would be updated to recognize other training requirements, improve available guidance and resources, and establish a content catalog.

The proposal also would grant individuals who terminate their registrations the option of maintaining their qualifications by completing continuing education.

Interested parties are encouraged to comment by April 20. Further details and comment instructions are available in FINRA Regulatory Notice 20-05, which is available [here](#).

## DERIVATIVES

See “European Commission Consults on MiFID II and MiFIR Review” in the EU Developments section.

## EU DEVELOPMENTS

### **ESMA Consults on Third-Country Reporting Under MiFID II and MiFIR**

On January 31, the European Securities and Markets Authority (ESMA) published a consultation paper (the CP) containing draft technical standards on the reporting requirements for third-country firms who provide investment services and activities in the European Union (EU) under the revised Markets in Financial Instruments Directive (MiFID II) and the Markets in Financial Instruments Directive (MiFIR).

ESMA is required to draft these technical standards following the amendments to MiFID II and MiFIR introduced by the Investment Firm Directive (the IFD) and the Investment Firms Regulation (the IFR) respectively.

The CP concerns two types of firms:

- firms who are accessing EU eligible counterparties and *per se* professional clients under Article 46 of MiFIR (i.e., on the basis of an equivalence determination (Equivalence Firms)), of which there are currently none because the European Commission has yet to make such a determination; and
- firms who are accessing the EU under Article 41 of MiFID II (i.e., as a branch (Branch Firms)).

Equivalence Firms must provide information to ESMA at the time of registration and continually on an annual basis. In the CP, ESMA proposes the detail of the information to be provided and some initial technical details regarding the format of that information.

Branch Firms must provide information, upon registration and on an annual basis, to the national competent authority (NCA) (i.e., the regulator) of the Member State in which it is established. The minimum information requirements are set out in MiFID II, and the NCA is free to impose higher standards if so desired. In the CP, ESMA proposes the format in which the information is to be provided, and notes the importance of aligning these requirements with those imposed on Equivalence Firms.

The CP is available [here](#) and the consultation closes on March 31.

## **European Commission Consults on MiFID II and MiFIR Review**

On February 17, the European Commission (EC) launched a public consultation on the review of the revised Markets in Financial Instruments Directive (MiFID II) and the Markets in Financial Instruments Directive (MiFIR) regulatory framework (together, the Framework).

The EC's consultation is divided into three sections. In the first section, the EC aims to gather views and feedback from all stakeholders on the experience of the first two years of the Framework. In particular, the EC asks whether "a targeted review . . . with an ambitious timeline would be appropriate to address the most urgent shortcomings." The EC asks stakeholders to rank their satisfaction with the Framework, and to indicate whether they believe the Framework has succeeded in its objectives.

In the second much more detailed section the EC seeks the views of stakeholders in relation to various technical aspects of the current Framework. The aspects designated as "priority areas for review" are:

- the establishment of an EU consolidated tape (CT), exploring why it hasn't emerged organically and, if it were to be established, proposals for its features and scope;
- the impact of the share trading obligation (STO) and potential interaction with the CT;
- systematic internalizers (SIs), both generally and in relation to the STO and CT;
- investor protection, including access to simple and transparent products, the relevance and accessibility of adequate information, client profiling and classification, product governance and best execution reporting.

This section also includes a number of more granular proposals, such as the phase out of paper-based information and the creation of a "semi-professional clients" categorization; research unbundling and coverage of small and medium-size enterprises (SMEs); and several proposals to foster more commodity derivatives trading denominated in euros.

The following aspects are designated as "non-priority for the review":

- the impact of the derivative trading obligation, the Double Volume Cap (DVC), and the open-access regime;
- the application of the multilateral system and whether it ensured a "level playing field;"
- proposals to address digitalization and new technologies, such as adapting the Framework to better suit digital and online offerings; and
- extending the Framework to cover spot FX contracts.

The third section of the EC’s consultation is a generic catch-all for stakeholders to “draw the attention of the Commission to any further regulatory aspects or identified issues.”

The EC’s consultation is available [here](#) and is open until April 20.

For additional coverage on financial and regulatory news, visit [Bridging the Week](#), authored by Katten’s [Gary DeWaal](#).

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**EU DEVELOPMENTS**

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