




MiFID II Level 2 and 3 text tracker

(updated to 23 June 2017)

This document tracks the progress of the adoption of Level 2 and Level 3 texts for MiFID II.

For each of the Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS), it links to the most recent text available. The RTS and ITS will be directly applicable. Level 3 guidelines are non-binding but firms and competent authorities are expected to comply with these.

A traffic light system is used to show:

	where there is only a draft text,
	where a final text has been produced but adoption is awaited or,
	when the text is adopted and published in the Official Journal of the EU.

This document will be updated from time to time as further texts are adopted, and made available on our website.

Note: ESMA numbered some ITS and RTS in certain reports, although not for all ITS/RTS. These numbers (e.g. "RTS 1") are included for cross-reference purposes for the RTS in ESMA/2015/1464, although not for ESMA/2015/1006 and ESMA/2015/1858 which re-used some of the numbers.

If, in relation to any particular aspect of MiFID II and its implications for UK based firms, you have any particular questions or you would like to discuss particular concerns, please do not hesitate to contact Kirstene Baillie (kirstene.baillie@fieldfisher.com), Nicholas Thompsell (nicholas.thompsell@fieldfisher.com), Azad Ali (azad.ali@fieldfisher.com) or your usual contact at Fieldfisher.

This text tracker has been produced as a convenient summary tracking the progression of the relevant legislation. It should not be relied upon as definitive. Any action should be taken on the basis of the legislation itself and not on the basis of this document. Fieldfisher LLP accepts no duty of care in relation to the contents of this document and accepts no liability for any errors or omissions it may contain or for any reliance on it.

CONTENTS:

MIFID II AND THE DELEGATED ACTS	3
INVESTMENT FIRM AUTHORISATION	4
PASSPORTING AND BRANCHES	6
THIRD COUNTRY FIRMS AND EQUIVALENCE DECISIONS	7
INVESTOR PROTECTION	8
MICRO-STRUCTURAL ISSUES	11
TRADING VENUES	14
MARKET DATA REPORTING	16
DATA PUBLICATION	18
POSITION REPORTING	20
TRANSPARENCY	21
DERIVATIVES	23
COMPETENT AUTHORITY CO-OPERATION	26
OTHER DOCUMENTS	28
Development of MiFID II RTS/ITS	28
ESMA MiFID II Q&As	31
ESMA miscellaneous reports	32

MiFID II AND THE DELEGATED ACTS

"MiFID II": [Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments](#)

"MiFIR": [Regulation \(EU\) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments](#)

"MiFID II Delegated Directive": [Commission Delegated Directive 2017/593 of 07 April 2016](#)
Status: published in the Official Journal

"MiFID II Delegated Regulation": [Commission Delegated Regulation 2017/565 of 25 April 2016](#)
Status: published in the Official Journal (note: amendment proposed in [draft Delegated Regulation .../... of XXX](#))

"MiFIR Delegated Regulation": [Commission Delegated Regulation 2017/567 of 18 May 2016](#)
Status: published in the Official Journal

Amending legislation:

"MiFID II Amending Directive": [Directive \(EU\) 2016/1034 of the European Parliament and of the Council of 23 June 2016 amending Directive 2014/65/EU on markets in financial instruments](#)

"MiFIR Amending Regulation": [Regulation \(EU\) 2016/1033 of the European Parliament and of the Council of 23 June 2016 amending Regulation \(EU\) No 600/2014 on markets in financial instruments, Regulation \(EU\) No 596/2014 on market abuse and Regulation \(EU\) No 909/2014 on improving securities settlement in the European Union and on central securities depositories](#)

MiFID II Corrigenda:

- [Corrigendum to MiFID II published 08/10/2016](#)
- [Corrigendum to MiFID II published 10/03/2017](#)

	Document	Legal basis	ESMA advice / draft	Status	
INVESTMENT FIRM AUTHORISATION					
1.	<p>RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – defined terms regarding investment firms and exemptions</p> <p>Commission Delegated Regulation 2017/565 of 25/04/2016</p> <p><i>(Note: amendment proposed in draft Delegated Regulation .../... of XXX)</i></p>	<i>MiFID II Articles 2(3), 4(1) and 4(2)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017	
2.	<p>RTS on information and requirements for the authorisation of investment firms</p> <p>Commission Delegated Regulation of 14/07/2016 - C(2016) 4417</p>	<i>MiFID II Article 7(4)</i>	Based on draft RTS from ESMA/2015/1006 (see also row 81)	Adopted by Commission: 14/07/2016 Awaiting consideration by Parliament and Council. OJ publication on hold until Corrigendum is finalised.	
3.	<p>ITS on standard forms and templates for notifications by and to applicant and authorised investment firms</p> <p>No Commission document published yet – see 'Status' column for latest draft</p>	<i>MiFID II Article 7(5)</i>	To be based on draft ITS from ESMA/2015/1006 (see also row 81)	Latest draft: ESMA/2015/1006	
4.	<p>Joint guidelines by ESMA and EBA on determining the elements that must be complied with by the management body (as listed in Article 91(12) of the CRD IV Directive (2013/36/EU))</p> <p>Proposed guidelines in consultation EBA/CP/2016/17 and Annex</p>	<i>MiFID II Article 9(1)</i>	ESMA-EBA consultation EBA/CP/2016/17 and Annex	Consultation EBA/CP/2016/17 and Annex published 28/10/2016. Public hearing scheduled for 05/01/2017 and consultation then closes 28/01/2017.	

	Document	Legal basis	ESMA advice / draft	Status
5.	<p>RTS to establish exhaustive list of information to be included by proposed acquirers of investment firms in their notification</p> <p>No Commission document published yet – see 'Status' column for latest draft</p>	<i>MiFID II Article 12(8)</i>	To be based on draft RTS from ESMA/2015/613 (see also row 80)	<p>ESMA Final Report: ESMA/2015/613</p> <p>Commission can decide if to adopt draft RTS</p>
6.	<p>ITS to determine standard forms, templates and procedures for the consultation process between the relevant competent authorities on proposed acquisition of investment firms</p> <p>No Commission document published yet – see 'Status' column for latest draft</p>	<i>MiFID II Article 12(9)</i>	To be based on draft ITS from ESMA/2015/613 (see also row 80)	<p>ESMA Final Report: ESMA/2015/613</p> <p>Commission can decide if to adopt draft ITS</p>
7.	<p>Guidelines regarding methods to monitor that investment firms comply with the requirements for initial authorisation</p> <p>No draft guidelines produced so far</p>	<i>MiFID II Article 21(2)</i>		ESMA is not required to produce these guidelines

	Document	Legal basis	ESMA advice / draft	Status
PASSPORTING AND BRANCHES				
8.	<p>RTS on information to be notified by investment firms, market operators and credit institutions wishing to establish a branch or provide investment services or activities in another Member State</p> <p>Commission Delegated Regulation 2017/1018 of 29/06/2016</p>	<p><i>MiFID II Articles 34(8) and 35(11)</i></p>	<p>Based on draft RTS from ESMA/2015/1006 (see also row 81)</p>	<p>Published in OJ on 17/06/2017</p>
9.	<p>ITS on standard forms, templates and procedures for transmission of information to be provided by investment firms, market operators and credit institutions wishing to establish a branch or provide investment services or activities in another Member State</p> <p>No Commission document published yet – see 'Status' column for latest draft</p>	<p><i>MiFID II Articles 34(9) and 35(12)</i></p>	<p>To be based on draft ITS from ESMA/2015/1006 (see also row 81)</p>	<p>Latest draft: ESMA/2015/1006</p>

	Document	Legal basis	ESMA advice / draft	Status
THIRD COUNTRY FIRMS AND EQUIVALENCE DECISIONS				
10.	<p>RTS on information for registration of third country firms and format of information to be provided to clients</p> <p>Commission Delegated Regulation 2016/2022 of 14/07/2016</p>	<i>MiFIR Article 46(7)</i>	Based on draft RTS from ESMA/2015/1006 (see also row 81)	Published in OJ on 21/11/2016

	Document	Legal basis	ESMA advice / draft	Status
INVESTOR PROTECTION				
11.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – organisational requirements Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 16(12)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
12.	RTS on governance and organisational arrangements regarding the safeguarding financial instruments and funds belonging to clients, product governance requirements and the rules applicable to the provision or reception fees, commissions or any monetary or non-monetary benefits Commission Delegated Directive 2017/593 of 07/04/2016	<i>MiFID II Articles 16(12) and 24(13)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
13.	Guidelines on product governance requirements under MiFID II ESMA Final guidelines (Annex IV) of 02/06/2017 – ESMA35-43-620	<i>MiFID II Articles 16(3) and 24(2)</i>		Translations to be published on ESMA website Guidelines apply from 03/01/2018
14.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – conflicts of interest Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 23(4)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
15.	Guidelines on cross-selling practices: improving disclosures, provision of information in timely clear manner, addressing conflicts of interest and improving client understanding ESMA Final guidelines (Annex 5) of 22/12/2015 - ESMA/2015/1861	<i>MiFID II Article 24(11)</i>		Translations published on ESMA website on 11/07/2016 Guidelines apply from 03/01/2017
16.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – information and reporting to clients (suitability) Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Articles 24(13) and 25(8)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
17.	Guidelines on the assessment of knowledge and competence for investment firm staff ESMA Final guidelines (see Annex VI) of 17/12/2015 - ESMA/2015/1886	<i>MiFID II Article 25(9)</i>		Translations to be published on ESMA website Guidelines apply from 03/01/2017
18.	Guidelines on complex debt instruments and structured deposits that incorporate a structure which makes it difficult for the client to understand the risk involved ESMA Final guidelines (see Annex V) of 26/11/2015 - ESMA/2015/1783	<i>MiFID II Article 25(10)</i>	Preceded by: Consultation Paper ESMA/2015/610 dated 24/03/2015	Translations published 04/02/2016 Guidelines apply from 03/01/2017
19.	Guidelines for the assessment of financial instruments being classified as non-complex No draft guidelines produced so far	<i>MiFID II Article 25(11)</i>		ESMA is not required to produce these guidelines

	Document	Legal basis	ESMA advice / draft	Status
20.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – best execution Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 27(9)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
21.	RTS on data to be provided by execution venues on the quality of execution of transactions ("RTS 27") Commission Delegated Regulation 2017/575 of 08/06/2016	<i>MiFID II Article 27(10)(a)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
22.	RTS on the annual publication by investment firms of information on the identity of execution venues and quality of execution ("RTS 28") Commission Delegated Regulation 2017/576 of 08/06/2016	<i>MiFID II Article 27(10)(b)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
23.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – client order handling Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 28(3)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
24.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – transactions executed with eligible counterparties Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 30(5)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
MICRO-STRUCTURAL ISSUES				
25.	RTS on market making agreements and market making schemes ("RTS 8") Commission Delegated Regulation 2017/578 of 13/06/2016	<i>MiFID II Articles 17(7)(a), 17(7)(b), 17(7)(c), 48(12)(a) and 48(12)(f)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
26.	RTS on specifying the organisational requirements of investment firms engaged in algorithmic trading, providing direct electronic access and acting as general clearing members ("RTS 6") Commission Delegated Regulation 2017/589 of 19/07/2016	<i>MiFID II Articles 17(7)(a) and 17(7)(d)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
27.	Guidelines on requirements for the management body of a market operator (time commitment; collective knowledge, skills and experience of management body; honesty, integrity and independence of mind; human and financial resources for induction and training; and diversity) Proposed guidelines in consultation ESMA/2016/1437	<i>MiFID II Article 45(9)</i>	Proposed guidelines in Annex V to consultation ESMA/2016/1437	Final guidelines to be produced by ESMA on basis of responses to the consultation expected by Q2 2017 – deadline for responses 05/01/2017
28.	RTS on specifying organisational requirements of regulated markets, multilateral trading facilities and organised trading facilities enabling or allowing algorithmic trading through their systems ("RTS 7") Commission Delegated Regulation 2017/584 of 14/07/2016	<i>MiFID II Articles 17(7)(a), 17(7)(b), 17(7)(c), 48(12)(a), 48(12)(c) and 48(12)(g)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
29.	RTS on ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions ("RTS 9") Commission Delegated Regulation 2017/566 of 18/05/2016	<i>MiFID II Article 48(12)(b)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
30.	RTS on requirements to ensure fair and non-discriminatory co-location services and fee structures ("RTS 10") Commission Delegated Regulation 2017/573 of 06/06/2016	<i>MiFID II Article 48(12)(d)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
31.	RTS on determining what is a 'material' regulated market in terms of liquidity in relation to notifications of a temporary halt in trading ("RTS 12") Commission Delegated Regulation 2017/570 of 26/05/2016	<i>MiFID II Article 48(12)(e)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
32.	Guidelines on appropriate calibration of trading halts ESMA Final guidelines in ESMA70-872942901-63 of 06/04/2017	<i>MiFID II Article 48(13)</i>	Final guidelines published together with Final Report ESMA70-872942901-17 Proposed guidelines in Annex IV to consultation ESMA/2016/1440	Guidelines apply from 03/01/2018
33.	RTS on tick size regime for shares, depository receipts and exchange-traded funds ("RTS 11") Commission Delegated Regulation 2017/588 of 14/07/2016	<i>MiFID II Articles 49(3) and 49(4)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
34.	<p>RTS on definitions, transparency, portfolio compression and supervisory measures on product intervention and positions – product intervention</p> <p>Commission Delegated Regulation 2017/567 of 18/05/2016</p>	<p><i>MiFIR Articles 40(8), 41(8), 42(7) and 45(10)</i></p>	<p>Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)</p>	<p>Published in OJ on 31/03/2017</p>

	Document	Legal basis	ESMA advice / draft	Status
TRADING VENUES				
35.	ITS on content and format of the description of the functioning of MTFs and OTFs and notification to ESMA ("ITS 19") Commission Implementing Regulation 2016/824 of 25/05/2016	<i>MiFID II Article 18(11)</i>	Based on draft ITS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 25/05/2016
36.	ITS on the format and timing of the communications and the publication of the suspension and removal of financial instruments from trading on a regulated market, an MTF or an OTF Commission Implementing Regulation 2017/1005 of 15/06/2017	<i>MiFID II Articles 32(3) and 52(3)</i>	Based on draft ITS from ESMA/2015/1858 (see also row 83)	Published in OJ on 16/06/2017
37.	RTS on admission of financial instruments to trading on regulated markets ("RTS 17") Commission Delegated Regulation 2017/568 of 24/05/2016	<i>MiFID II Article 51(6)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
38.	RTS on suspension and removal of financial instruments from trading ("RTS 18") Commission Delegated Regulation 2017/569 of 24/05/2016	<i>MiFID II Article 32(2) and 52(2)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
39.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – suspension and removal of financial instruments from trading, and monitoring of compliance Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Articles 31(4), 32(4), 33(8), 52(4) and 54(4)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
40.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – trading venues of substantial importance Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 79(8)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
41.	RTS on definitions, transparency, portfolio compression and supervisory measures on product intervention and positions – trading venue requirements Commission Delegated Regulation 2017/567 of 18/05/2016	<i>MiFIR Articles 2(2), 13(2), 15(5), 17(3) 19(2) and 19(3)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status	
MARKET DATA REPORTING					
42.	RTS on the level of accuracy of business clocks ("RTS 25") Commission Delegated Regulation 2017/574 of 07/06/2016	<i>MiFID II 50(2)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017	
43.	RTS on maintenance of relevant data relating to orders in financial instruments ("RTS 24") Commission Delegated Regulation 2017/580 of 24/06/2016	<i>MiFIR Article 25(3)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017	
44.	RTS on data standards and formats for financial instrument reference data and technical measures in relation to arrangements to be made by ESMA and competent authorities ("RTS 23") Commission Delegated Regulation 2017/585 of 14/07/2016	<i>MiFIR Article 27(3)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017	
45.	Guidelines on transaction reporting, order record keeping and clock synchronisation Guidelines in ESMA/2016/1452	<i>MiFID Article 50(2) and MiFIR Articles 25(3) and 27(3)</i>	Guidelines published on 10/10/2016 with Final Report ESMA/2016/1451 Proposed guidelines in consultation ESMA/2015/1909	Final guidelines published 10/10/2016. Translations not yet published. Guidelines apply from 03/01/2018	
46.	Guidelines on the obligation to report transactions regarding the application of legal entity identifiers No draft guidelines produced so far	<i>MiFIR Article 26(6)</i>		Outstanding	

	Document	Legal basis	ESMA advice / draft	Status
47.	RTS on reporting of transactions to competent authorities ("RTS 22") Commission Delegated Regulation 2017/590 of 28/07/2016	<i>MiFIR Article 26(9)</i>	Based on draft RTS from ESMA/2016/653 and the updated Annex II in ESMA/2016/1064 (note: amends the draft RTS in ESMA/2015/1464 - see also row 82)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status	
DATA PUBLICATION					
48.	RTS on authorisation, organisational requirements and the publication of transactions for data reporting services providers ("RTS 13") Commission Delegated Regulation 2017/571 of 02/06/2016	<i>MiFID II Articles 61(4), 64(6), 64(8), 65(6), 65(8) and 66(5)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017	Green
49.	ITS on standard forms, templates and procedures for the authorisation of data reporting services providers and related notifications Commission Implementing Regulation 2017/1110 of 22/06/2017	<i>MiFID II Article 61(5)</i>	To be based on draft ITS from ESMA/2015/1858 (see also row 83)	Published in OJ on 23/06/2017	Green
50.	Guidelines on requirements on management body of a data reporting services provider Proposed guidelines in consultation ESMA/2016/1437	<i>MiFID II Article 63(2)</i>	Proposed guidelines in Annex V to consultation ESMA/2016/1437	Final guidelines to be produced by ESMA on basis of responses to the consultation expected by Q2 2017 – deadline for responses 05/01/2017	Yellow
51.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – reasonable commercial basis Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 64(7) and 65(7)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017	Green
52.	RTS on the scope of the consolidated tape for non-equity financial instruments No Commission document published yet – see 'Status' column for latest draft	<i>MiFID II Article 65(8)(c)</i>	To be based on draft RTS in ESMA/2017/70-8792942901-40 (see also row 88)	Latest draft: ESMA/2017/70-8792942901-40	Red

	Document	Legal basis	ESMA advice / draft	Status
53.	RTS on specification of the offering of pre-trade and post-trade data and the level of disaggregation ("RTS 14") Commission Delegated Regulation 2017/572 of 02/06/2016	<i>MiFIR Article 12(2)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
54.	RTS on clearing access in respect of central counterparties and trading venues ("RTS 15") Commission Delegated Regulation 2017/581 of 24/06/2016	<i>MiFIR Articles 35(6) and 36(6)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017
55.	RTS on access in respect of benchmarks ("RTS 16") Commission Delegated Regulation 2016/2021 of 02/06/2016	<i>MiFIR Articles 37(4)(a), 37(4)(b) and 37(4)(c)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 21/11/2016

	Document	Legal basis	ESMA advice / draft	Status
POSITION REPORTING				
56.	ITS on the format of position reports by investment firms and market operators Commission Implementing Regulation 2017/1093 of 20/06/2017	<i>MiFID II Article 58(5)</i>	ESMA published revised draft ITS in ESMA70-872942901-3 , following its initial final draft ITS in ESMA/2015/1858 (see also row 83)	Published in OJ on 21/06/2017
57.	RTS on organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II – position reporting thresholds Commission Delegated Regulation 2017/565 of 25/04/2016	<i>MiFID II Article 58(6)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017
58.	ITS on the format and timing of weekly position reports by investment firms and market operators of trading venues Commission Delegated Regulation 2017/953 of 06/06/2017	<i>MiFID II Article 58(7)</i>	Based on draft ITS from ESMA/2015/1858 (see also row 83)	Published in OJ on 07/06/2017

	Document	Legal basis	ESMA advice / draft	Status
TRANSPARENCY				
59.	<p>Extension to other central banks of exemption regarding certain transactions with a member of the European System of Central Banks</p> <p>Commission Delegated Regulation .../... of XXX and Annex 1 (published on 12/06/2017 as C(2017) 3890 and Annex)</p>	<i>MiFIR Article 1(9)</i>	<p>n/a</p> <p>Note: Commission report COM(2017) 298 final published 09/06/2017 covered certain third-country central banks</p>	<p>Adopted by Commission on 12/06/2017</p> <p>Awaiting consideration by Parliament and Council.</p>
60.	<p>RTS on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and the obligation for investment firms to execute ("RTS 1")</p> <p>Commission Delegated Regulation 2017/587 of 14/07/2016</p>	<i>MiFIR Articles 4(6), 7(2), 14(7), 20(3), 22(4) and 23(3)</i>	<p>Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)</p>	Published in OJ on 31/03/2017
61.	<p>RTS on volume cap mechanism and provision of information for purposes of transparency and other calculations ("RTS 3")</p> <p>Commission Delegated Regulation 2017/577 of 13/06/2016</p>	<i>MiFIR Articles 5(9) and 22(4)</i>	<p>Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)</p>	Published in OJ on 31/03/2017
62.	<p>RTS on transparency requirements re bonds, structured finance products, emission allowances and derivatives ("RTS 2")</p> <p>Commission Delegated Regulation 2017/583 of 14/07/2016</p>	<i>MiFIR Articles 1(8), 9(5), 11(4), 21(5) and 22(4)</i>	<p>Based on draft RTS from ESMA/2016/666 and Annex (see also row 84)</p> <p>(further to Commission request to redraft the RTS in ESMA/2015/1464 and Annex I - see also row 82)</p>	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
63.	<p>RTS on package orders for which there is a liquid market</p> <p>No Commission document published yet – see 'Status' column for latest draft</p>	<i>MiFIR Article 9(6)</i>	To be based on draft RTS in ESMA70-872942901-21 and Annex (see row 89)	<p>Latest draft published by ESMA in ESMA70-872942901-21 on 28/02/2017 and Annex</p> <p>The Commission has 3 months from the date of submission on 27/02/2017 to decide whether to adopt these</p>
64.	<p>RTS on the direct, substantial and foreseeable effect of contracts within the EU and the prevention of the evasion of rules and obligations ("RTS 5")</p> <p>Commission Delegated Regulation 2017/579 of 13/06/2016</p>	<i>MiFIR Article 28(5)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 31/03/2017

	Document	Legal basis	ESMA advice / draft	Status
DERIVATIVES				
65.	<p>RTS on criteria to establish when a non-financial firm's commodity derivatives trading activity is considered to be ancillary to its main business ("RTS 20")</p> <p>Commission Delegated Regulation 2017/592 of 01/12/2016</p>	<i>MiFID II Article 2(4)</i>	<p>Based on draft RTS from ESMA/2016/730 and Annex (see row 86)</p> <p>(further to Commission request to redraft the RTS in ESMA/2015/1464 and Annex I - see also row 82)</p>	Published in OJ on 31/03/2017
66.	<p>RTS on methodology for the calculation and application of position limits for commodity derivatives traded on trading venues and economically equivalent OTC contracts ("RTS 21")</p> <p>Commission Delegated Regulation 2017/591 of 01/12/2016</p>	<i>MiFID II Articles 57(3) and 57(12)</i>	<p>Based on draft RTS from ESMA/2016/668 and Annex (see row 85)</p> <p>(further to Commission request to redraft the RTS in ESMA/2015/1464 and Annex I - see also row 82)</p>	Published in OJ on 31/03/2017
67.	<p>RTS on obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing ("RTS 26")</p> <p>Commission Delegated Regulation 2017/582 of 29/06/2016</p>	<i>MiFIR Article 29(3)</i>	<p>Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)</p>	Published in OJ on 31/03/2017
68.	<p>RTS on indirect clearing arrangements under MiFIR</p> <p>No Commission document published yet – see 'Status' column for latest draft</p>	<i>MiFIR Article 30(2)</i>	<p>Based on draft RTS from ESMA/2016/725 (see also row 87)</p>	<p>Latest draft: ESMA/2016/725</p> <p>Response due 25/08/2016</p>

	Document	Legal basis	ESMA advice / draft	Status	
69.	RTS on definitions, transparency, portfolio compression and supervisory measures on product intervention and positions – derivatives (portfolio compression) Commission Delegated Regulation 2017/567 of 18/05/2016	<i>MiFIR Article 31(4)</i>	Based on ESMA's technical advice in ESMA/2014/1569 (see also row 79)	Published in OJ on 31/03/2017	
70.	RTS on classes of derivatives subject to EMIR clearing obligation that they trade on regulated markets, MTFs or OTFs and the date(s) from which this obligation will take effect No Commission document published yet – see 'Status' column for latest draft	<i>MiFIR Article 32(1)</i>	To be based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Latest draft: ESMA/2015/1464 and Annex I	
	<i>Note: ESMA must produce draft RTS for every class of derivative declared subject to the EMIR trading obligation</i>			ESMA published discussion paper ESMA/2016/1389 on 20/09/2016 and published consultation paper ESMA70-156-71 on 19/06/2017 with proposed draft RTS in Annex IV	
71.	RTS to amend, suspend or revoke existing RTS whenever there is a material change in the criteria for the trading obligation to take effect No Commission document published yet	<i>MiFIR Article 32(5)</i>	Outstanding	Outstanding	
72.	RTS on criteria for determining whether derivatives subject to the clearing obligation should be subject to the trading obligation ("RTS 4") Commission Delegated Regulation 2016/2020 of 26/05/2016	<i>MiFID II Article 32(6)</i>	Based on draft RTS from ESMA/2015/1464 and Annex I (see also row 82)	Published in OJ on 21/11/2016	

	Document	Legal basis	ESMA advice / draft	Status
73.	ITS on mechanism to avoid duplicative or conflicting rules on clearing obligations on derivatives in third countries No Commission document published yet	<i>MiFIR Article 33(2)</i>	n/a	The Commission may adopt such implementing acts as are necessary

	Document	Legal basis	ESMA advice / draft	Status
COMPETENT AUTHORITY CO-OPERATION				
74.	ITS on procedures and forms for submitting information on sanctions and measures No Commission document published yet – see 'Status' column for latest draft	<i>MiFID II Article 71(7)</i>	To be based on draft ITS from ESMA/2015/1858 (see also row 83)	Latest draft: ESMA/2015/1858
75.	ITS on standard forms, templates and procedures for cooperation arrangements in respect of a trading venue whose operations are of substantial importance in a host Member State Commission Implementing Regulation 2017/988 of 06/06/2017	<i>MiFID II Article 79(9)</i>	Based on draft ITS from ESMA/2015/1858 (see also row 83)	Published in OJ on 13/06/2017
76.	RTS on exchange of information between competent authorities when cooperating in supervisory activities, on-the-spot verifications and investigations Commission Delegated Regulation 2017/586 of 14/07/2016	<i>MiFID II Article 80(3)</i>	Based on draft RTS from ESMA/2015/1006 (see also row 81)	Published in OJ on 31/03/2017
77.	ITS on standard forms, templates and procedures for cooperation in supervisory activities, for on-site verifications, and investigations and exchange of information between competent authorities Commission Implementing Regulation 2017/980 of 12/06/2017	<i>MiFID II Articles 80(4) and 81(4)</i>	Based on draft ITS from ESMA/2015/1858 (see also row 83)	Published in OJ on 12/06/2017

	Document	Legal basis	ESMA advice / draft	Status
78.	ITS on standard forms and procedures for the consultation of other competent authorities prior to granting an authorisation Commission Implementing Regulation 2017/981 of 12/06/2017	<i>MiFID II Article 84(4)</i>	Based on draft ITS from ESMA/2015/1858 (see also row 83)	Published in OJ on 12/06/2017

OTHER DOCUMENTS

	Document	Legal basis	ESMA advice / draft	Status
Development of MiFID II RTS/ITS				
79.	ESMA Final Report of 19/12/2014 containing technical advice - ESMA/2014/1569 Regulation relating to secondary markets and investor protection	(Specified by individual ITS/RTS above)	Preceded by: Consultation Paper ESMA/2014/549 dated 22 May 2014	Submitted to Commission 19/12/2014
80.	ESMA Final Report of 23/03/2015 with draft RTS and ITS - ESMA/2015/613 Draft RTS and ITS covering assessment of acquisitions / increases in qualifying holdings in investment firms (Art 10(8) of MiFID I / Articles 12(8) and 12(9) of MiFID II): <ul style="list-style-type: none"> • RTS: information to be included by proposed acquirers • ITS: forms, templates and procedures for competent authorities 	<i>MiFID II Articles 12(8) and 12(9)</i>	Preceded by: previous Final Report ESMA/2013/1940 dated 17/12/2013, and Consultation Paper ESMA/2013/918 dated 08/07/2013	Submitted to Commission 27/03/2015
81.	ESMA Final Report of 29/06/2015 with draft RTS and ITS - ESMA/2015/1006 Draft RTS and ITS covering authorisation, passporting, registration of third country firms and competent authorities cooperation: <ul style="list-style-type: none"> • RTS 1: information for authorisation • ITS 2: notification by / to applicant • RTS 3: information to be notified by investment firms • ITS 4: standard forms, etc • RTS 5: registration of third country firms • RTS 6: exchange of information between competent authorities 	(Specified by individual ITS/RTS above)	Preceded by: Consultation Paper ESMA/2014/1570 and Annex B dated 19/12/2014, itself preceded by Discussion Paper ESMA/2014/548 dated 22/05/2014	Submitted to Commission 30/06/2015

	Document	Legal basis	ESMA advice / draft	Status
82.	<p>ESMA Final Report of 28/09/2015 with draft RTS and ITS - ESMA/2015/1464 and Annex I</p> <p>28 draft RTS and ITS:</p> <ul style="list-style-type: none"> • RTS 1-5: transparency • RTS 6-12: market microstructure • RTS 13-16: data publication and access • RTS 17-19: trading venues requirements • RTS 20 and 21: commodity derivatives • RTS 22-25: market data reporting • RTS 26: post-trading • RTS 27 and 28: investor protection 	(Specified by individual ITS/RTS above)	<p>Preceded by: Consultation Paper ESMA/2014/1570 and Annex B dated 19/12/2014, itself preceded by Discussion Paper ESMA/2014/548 dated 22/05/2014</p>	<p>Submitted to Commission 28/09/2015</p> <p>(Note: Commission requested changes to RTS 2, RTS 20 and RTS 21 which ESMA has since issued opinions on – see respectively ESMA/2016/666 and Annex (row 84), ESMA/2016/730 and Annex (row 86), and ESMA/2016/668 and Annex (row 85))</p>
83.	<p>ESMA Final Report of 11/12/2015 with draft ITS - ESMA/2015/1858</p> <p>Draft ITS on:</p> <ul style="list-style-type: none"> • ITS 1: cooperation in respect of a trading venue of substantial importance • ITS 2: suspension and removal of financial instruments from trading • ITS 3: authorisation of data reporting services providers • ITS 4: position reporting • ITS 5: weekly position reports • ITS 6: competent authority cooperation in supervisory activities, etc • ITS 7: consultation with other competent authorities before granting authorisation • ITS 8: procedures and forms for submitting information on sanctions and measures. 	(Specified by individual ITS/RTS above)	<p>Preceded by: Consultation Paper ESMA/2015/1301 dated 19/12/2014</p>	<p>Submitted to Commission 11/12/2015</p> <p>(Note: ESMA produced amended final ITS in relation to position reporting on 10/02/2017 in ESMA70-872942901-3 (row 55))</p>

	Document	Legal basis	ESMA advice / draft	Status	
84.	ESMA Opinion of 02/05/2016 - ESMA/2016/666 (and Annex) Draft RTS on MiFIR transparency requirements for bonds, structured finance products, emission allowances and derivatives (RTS 2)	<i>MiFIR Articles 1(8), 9(5), 11(4), 21(5) and 22(4)</i>	Initial draft of RTS 2 in ESMA/2015/1464 and Annex I (see also row 82)	Opinion to Commission 02/05/2016	
85.	ESMA Opinion of 02/05/2016 - ESMA/2016/668 (and Annex) Draft RTS on methodology regarding position limits for commodity derivatives traded on trading venues and economically equivalent OTC contracts (RTS 21)	<i>MiFID II Articles 57(3) and 57(12)</i>	Initial draft of RTS 21 in ESMA/2015/1464 and Annex I (see also row 82)	Opinion to Commission 02/05/2016	
86.	ESMA Opinion of 30/05/2016 - ESMA/2016/730 (and Annex) Draft RTS on criteria to establish when a non-financial firm's commodity derivatives trading is ancillary to its main business (RTS 20)	<i>MiFID II Article 2(4)</i>	Initial draft of RTS 20 in ESMA/2015/1464 and Annex I (see also row 82)	Opinion to Commission 30/05/2016	
87.	ESMA Final Report of 26/05/2016 - ESMA/2016/725 Draft RTS on indirect clearing arrangements under EMIR and MiFIR	<i>MiFIR Article 30(2)</i>	Preceded by: Consultation Paper ESMA/2015/1628 dated 05/11/2015	Opinion to Commission 26/05/2016	
88.	ESMA Discussion Paper of 20/09/2016 - ESMA/2016/1389 On implementation of trading obligation for derivatives and preliminary analysis of classes of derivatives that could become subject to the trading obligation	<i>MiFIR Articles 28 and 32(1)</i>	Not known at this stage if RTS to be produced	ESMA may publish draft RTS in summer 2017 if deemed appropriate	

	Document	Legal basis	ESMA advice / draft	Status
89.	ESMA Final Report of 31/03/2017 - ESMA/2017/70-8792942901-40 Draft RTS on the scope of the consolidated tape for non-equity financial instruments	<i>MiFID II Article 65(8)(c)</i>	Preceded by: Consultation Paper ESMA/2016/1422	Final draft RTS to be finalised by ESMA on basis of responses to the consultation
90.	ESMA Consultation Paper of 10/11/2016 - ESMA/2016/1562 Draft RTS on package orders for which there is a liquid market	<i>MiFIR Article 9(6)</i>	Final draft RTS in ESMA70-872942901-21 Initial draft RTS in ESMA/2016/1562	Final draft RTS published by ESMA in ESMA70-872942901-21 on 28/02/2017 – the Commission has 3 months from the date of submission on 27/02/2017 to decide whether to adopt these
ESMA Q&As				
91.	ESMA Q&As on CFDs and other speculative products under MiFID II ESMA Q&A of 08/04/2016 - ESMA/2016/590	n/a		Latest version published 08/04/2016 (to be updated on a regular basis)
92.	ESMA Q&As on transparency topics under MiFID II ESMA Q&A of 31/05/2017 – ESMA70-872942901-35	n/a	Previous versions: <ul style="list-style-type: none"> • at 04/11/2016 • at 03/10/2016 • at 18/11/2016 • at 19/12/2016 • at 31/01/2017 • at 05/04/2017 	Latest version published 05/04/2017 (to be updated on a regular basis)
93.	ESMA Q&As on investor protection topics under MiFID II ESMA Q&A of 06/06/2017 – ESMA35-43-349	n/a	Previous versions: <ul style="list-style-type: none"> • at 10/10/2016 • at 16/12/2016 • at 04/04/2017 	Latest version published 04/04/2017 (to be updated on a regular basis)

	Document	Legal basis	ESMA advice / draft	Status
94.	ESMA Q&As on MiFID II and MiFIR market structures topics ESMA Q&A of 31/05/2017 – ESMA70-872942901-38	n/a	Previous versions: <ul style="list-style-type: none"> at 18/11/2016 at 19/12/2016 at 31/01/2017 at 05/04/2017 	Latest version published 05/04/2017 (to be updated on a regular basis)
95.	ESMA Q&As on commodity derivatives topics under MiFID II and MiFIR ESMA Q&A of 31/05/2017 – ESMA70-872942901-28	n/a	Previous versions: <ul style="list-style-type: none"> at 19/12/2016 at 05/04/2017 	Latest version published 05/04/2017 (to be updated on a regular basis)
96.	ESMA Q&As relating to data reporting under MiFID II and MiFIR ESMA Q&A of 03/04/2017 – ESMA70-1861941480-56	n/a	Previous versions: <ul style="list-style-type: none"> at 20/12/2016 at 02/02/2017 	Latest version published 03/04/2017 (to be updated on a regular basis)
Miscellaneous				
97.	MiFID Suitability Requirements ESMA Peer Review Report of 07/04/2016 - ESMA/2016/584 (and Annex - ESMA/2016/585)			
98.	MiFID Best Execution ESMA follow-up Peer Review Report of 11/01/2017 - ESMA42-1643088512-2962		Follow-up to Peer Review Report of 25 February 2015 (ESMA/2015/494)	
99.	Risk Assessment on the need for temporary exclusion of exchange traded derivatives from Articles 35 and 36 of MiFIR ESMA Risk Assessment of 04/04/2016 - ESMA/2016/461			Commission must consider whether to adopt a delegated act. Given ESMA's conclusions, a delegated act is not expected.

	Document	Legal basis	ESMA advice / draft	Status
100.	MiFID II technical data reporting requirements ESMA briefing of 12/01/ 2017 with summary of technical data reporting requirements under MiFIR - ESMA00-6-245			Published 12/01/ 2017
101.	Scope of MiFIR for fund managers ESMA opinion of 12/01/ 2017 on the impact of the exclusion of fund management companies from the scope of the MiFIR - ESMA00-6-245			Published 12/01/ 2017
102.	Meaning of traded on a trading venue ESMA opinion of 22/05/2017 on the meaning of traded on a trading venue in respect of OTC derivatives under MiFID II - ESMA70-156-117			Published 22/05/2017
103.	Determining third-country trading venues – position limits regime ESMA opinion of 31/05/2017 on determining third-country trading venues for purpose of MiFID II position limit regime - ESMA70-156-112			Published 31/05/2017
104.	Determining third-country trading venues – post-trade transparency ESMA opinion of 31/05/2017 on determining third-country trading venues for the purpose of MiFID II post-trade transparency requirements - ESMA70-154-165			Published 31/05/2017

	Document	Legal basis	ESMA advice / draft	Status
105.	Product intervention under MiFIR ESMA Securities and Markets Stakeholder Group ("SMSG") own-initiative report of 16/06/2017 on product intervention under MiFIR - ESMA22-106-264			Published 22/06/2017