Insideview

MiFID II – Finally a Reality!

INTERVIEW WITH TORSTEN SCHAPER

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After more than eight years of intensive discussions and preparations by regulators and by the financial industry, MiFID II and MiFIR went live on January 3rd, 2018. Most market observers agree that this has been the biggest regulatory overhaul in European financial markets ever. Do you agree?

I could not agree more. We started our MiFID II project at Deutsche Börse back in 2010. And it was massive. It took the EU almost four years to agree on the Level 1 legislative text alone. After that, the detail work started to clarify all technical details – for some of them this took even until very recently. So it has been – and still is – challenging to get everything implemented in time.

Now, eight years later, Europe finally made it: MiFID II is a reality! It is a very comprehensive piece of legislation: It affects all institutions that act on financial markets and it got bigger than anybody would have ever expected. In total, it now consists of more than 30,000 pages, including:

- Reactions to the financial crisis such as the introduction of the trading obligation for derivatives;
- The extension of the transparency regime from equities to all financial instruments;
- Adoptions due to technological developments such as algorithmic trading;
- An adaptation to the new regime to achieve more harmonization across the EU; and finally
- The optimization resulting from the planned review of MiFID I.

What are the most important changes concerning trading and market infrastructures?

Most important from my perspective is the extension of the transparency regime to all financial instruments – especially for bonds and derivatives. The implementation of these requirements not only resulted in massive changes in parameters, processes, and systems but will shake up market structure and trading operations in some asset classes. Furthermore, the trading obligations for equities and derivatives will change trading behavior and ensure that more trading will take place on regulated trading venues. As a result, more trading will contribute to price formation. Finally, MiFID II helps competent authorities to do their job as they are provided with the information they need.

What are the drivers behind the introduction of the trading obligations?

The main intention is to ensure a higher level of transparency. On the derivatives side, this is a lesson learnt from the financial crisis. On the equities side, this is a lesson learnt from MiFID I leading to a too high share of OTC trading not contributing to public price formation. From now on, OTC trading will only be allowed if these trades fulfill pre-defined criteria.

Which other concepts within MiFID II will influence European financial markets?

First of all, as of January this year, a completely new category of trading venues called Organised Trading Facility comes into existence. These venues capture new types of organized execution for bonds, structured finance products, emission allowances, and derivatives outside of regulated markets and multilateral trading facilities. The main intention is to ensure a level playing field between various venues offering multilateral trading services. Second, a so-called "double volume cap regime" for equity trading is introduced. Its goal is to protect the price discovery process on public markets by limiting the amount of orders executed in unregulated dark pools.

How will Brexit change MiFID II?

MiFID II was originally designed for 28 EU countries, including the UK. Once the UK has left the EU, it loses the EU passport for financial services and becomes a third country. The existing regime will reach its limits given the volumes of EU trading taking place in the UK and vice versa. Many thresholds that are essential parts of MiFID II for determining transparency and trading obligations will need to be recalibrated as the biggest financial centre will not be part of the sample anymore. In addition, we need third country regimes that are able to cope with the relevance of the UK for EU financial markets.

Only if this is considered properly, the MiFID II objectives to increase transparency, stability, and investor protection can be ensured.

Thank you for this interesting conversation.