



cutting through complexity

MiFID2/MiFIR

New requirements for retail and
wholesale markets



MiFID2/MiFIR entail diverse and comprehensive changes.

The Markets in Financial Instruments Directive (MiFID) as of 21 April 2004 is a central component of the European financial market regulation. It aims to improve investor protection, strengthen competition and harmonize the European financial market. It came into force in 2007 and has since then been implemented and applied throughout the EU.

However, the developments and upheavals on the financial markets over the last few years have led to the creation of new trading venues and products. A large number of transactions are handled outside of regulated trading venues. Existing regulations with regard to investor protection are seen by many as being insufficient.

In October 2011, the EU Commission thus submitted a package of reforms which includes a new version of the Markets in Financial Instruments Directive (MiFID2) and the supplementary, directly applicable Markets in Financial Instruments Regulation (MiFIR). In January 2014, the EU institutions reached political agreement on final compromised texts, as a result of lengthy and controversial negotiations. The European Securities and Markets Authority (ESMA) is to provide detailed level 2 documents that will be decisive for practical implementation.

The new regulations concern two business areas that are of fundamental importance for very many banks, asset managers and other financial services providers: the distribution and trading of financial instruments.

MiFID2 forms the future legal framework for the provision of retail investment services, for the operation of regulated wholesale markets and other trading venues, and for the trading of commodity derivatives.

MiFIR contains in particular provisions relating to the publication of trade transparency data and the non-discriminatory access to clearing facilities. Specific supervisory measures with regard to financial instruments and trading practices as well as new product and sales intervention rights are also set out in the MiFIR.

The new regulations resulting from MiFID2/MiFIR lead to a comprehensive need for adaptation with regard to business models, sales structures and trading activities. The implementation measures required relate both to strategic aspects and to structural and procedural organisation, processes and systems.



Overview of core themes and key issues of MiFID2/MiFIR

1 Investor protection

- Avoidance of conflicts of interest, preservation of customer interests
- Greater transparency, more documentation
- Ban on commissions in connection with investment advice and portfolio management
- Special requirements of “independent” investment advice
- New product governance regime
- Qualification and incentivisation/remuneration of investment advisors

2 Market transparency

- Pre-trade transparency
- Post-trade transparency
- Reporting (transaction reports, data consolidation/provision)

3 Market infrastructure

- Regulation of algorithmic and high-frequency trading
- Organised Trading Facility (OTF) as a new category of regulated trading venues
- Non-discriminatory market access
- Derivatives: trading and clearing obligations (corresponding with EMIR)
- Commodity derivatives: position controls and limits

4 Governance

- Extended requirements for management bodies (qualification, diversity etc.)
- Sound and prudent management that promotes the integrity of the market and the interests of its clients

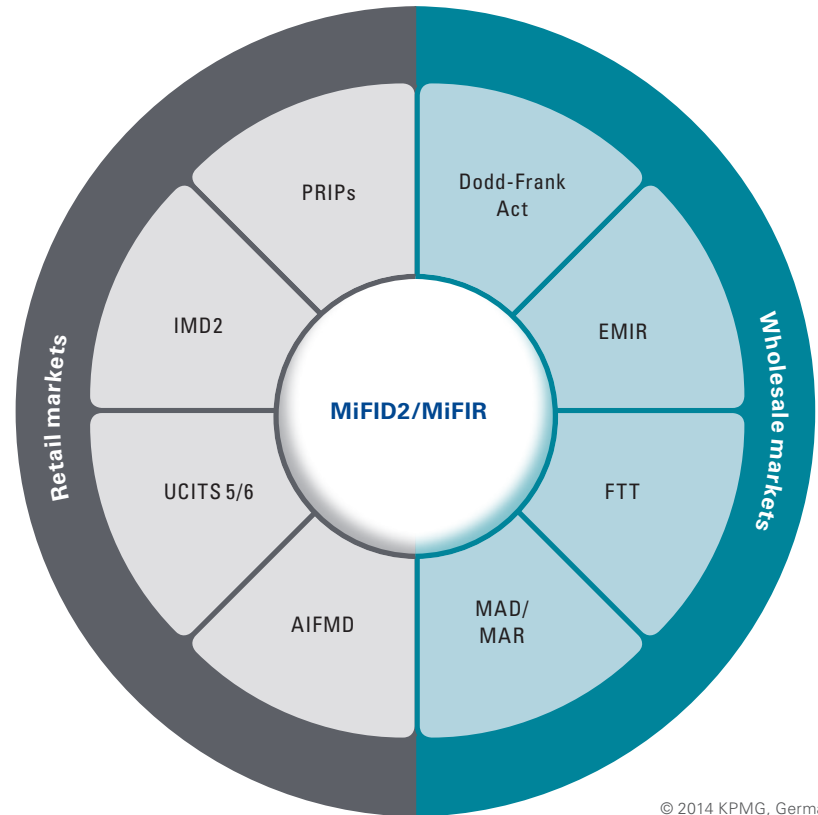
5 Supervisory authorities

- Authorisation for (ex ante) product intervention and (ex post) sales intervention
- Authorisation to intervene at any time with regard to the financial instruments traded and the financial activities or trading practices observed
- Authorisation to observe product governance processes and intervene as deemed required

MiFID2/MiFIR become central elements of a highly complex regulation framework.

Various interfaces need to be identified and analysed in order to guarantee efficient implementation and to be able to generate synergy effects.

This applies, for instance, to the interaction of the OTC derivative trading and clearing between EMIR and MiFIR, or the varying prerequisites for the product design and sale of different financial instruments, such as funds, certificates, insurances or deposit accounts.

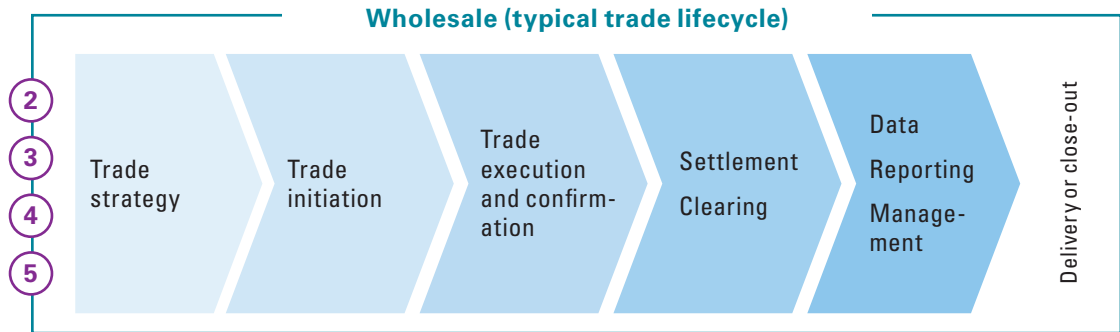
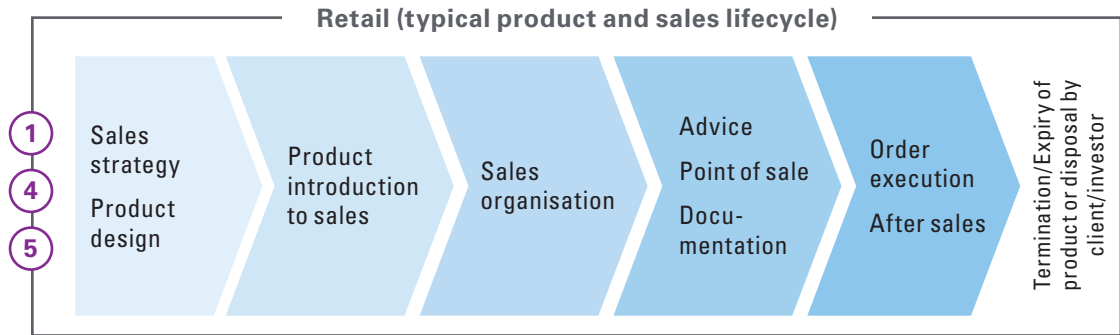


© 2014 KPMG, Germany

The effects of MiFID2/MiFIR are far-reaching and relate to the entire respective value chain.

Core themes

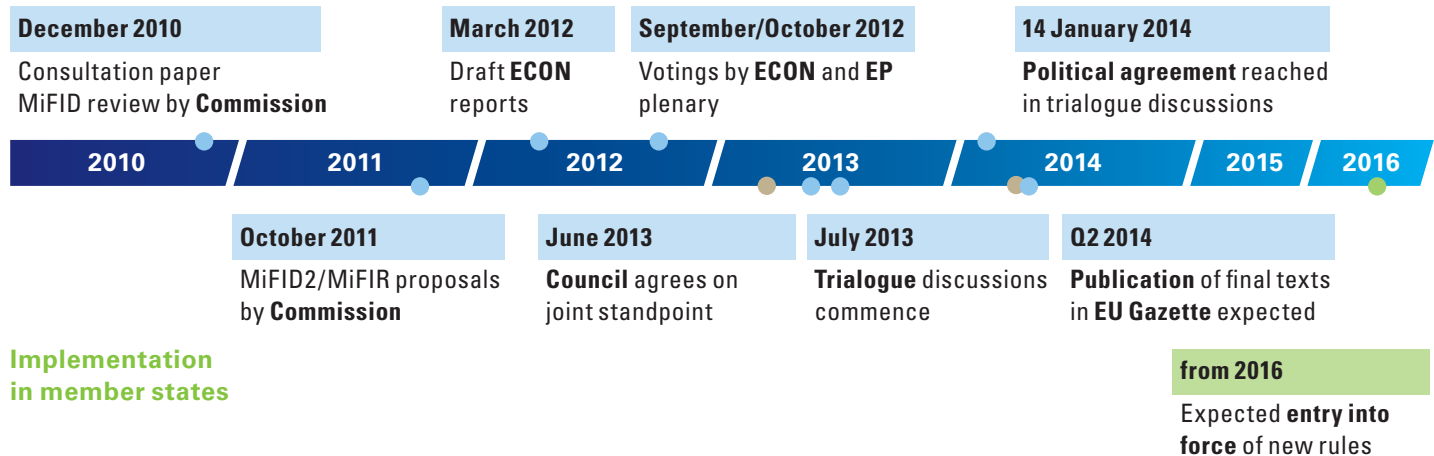
- 1 Investor protection
- 2 Market transparency
- 3 Market infrastructure
- 4 Governance
- 5 Supervisory authorities





The new regulations are to be available and sufficiently specified ...

EU legislation



Implementation in member states

ESMA activities

since Q1 2013
Drafting of level 2 measures for MiFID2/MiFIR

Q2 2014
Publication of draft level 2 measures for MiFID2/MiFIR expected

...so that there is now a need for action.

Why is there a need for action now?

- The final texts of MiFID2 and MiFIR are available. ESMA is to provide detailed draft level 2 papers.
- The new regulations are comprehensive, detailed and complex. The implementation will be very costly and onerous. Even if the deadlines for implementation appear comfortable, the course already needs to be set now due to the large number of new requirements.
- Early careful analysis and proactive preparation of the implementation will offer tangible commercial benefit – and can be a decisive competitive advantage.

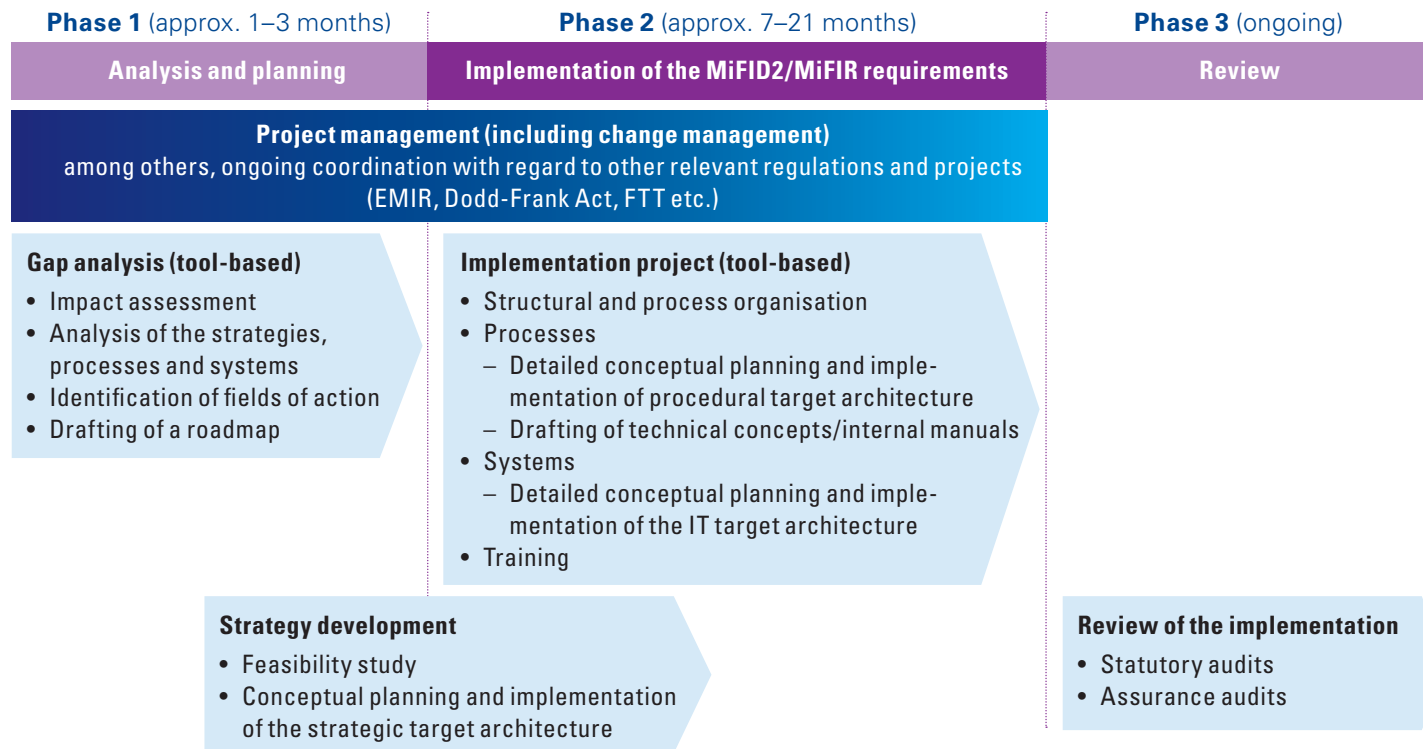
What needs to be done?

- The required implementation measures relate to the entire business model: strategy, structural and process organisation, processes and systems.
- A structured, project-like approach ensures the involvement of all decision makers and participants and contributes to a cost-efficient punctual implementation.








What will happen if action is not taken now?

- Those who do not face the new challenges early on will risk falling behind competitors and losing possible efficiency and cost benefits.
- Those who do not prepare for the new regulatory environment in good time will be exposed to consequences from the supervisory authorities and liability and reputation risks.

With the project-like analysis and implementation of the new requirements ...



... our team is on hand to assist you.

Lead		Dr. Markus Lange Partner Legal, Financial Services*						
		Bernd Lindner Partner Consulting, Financial Services		Dirk Auerbach Partner Audit, Financial Services		Elmar Hell Partner Audit, Financial Services		Dr. Dirk Schubert Partner Audit, Financial Services
Core team	KPMG, Austria				KPMG, Switzerland			
		Bernhard Gruber Partner Consulting, Financial Services				Pascal Sprenger Director Legal, Financial Services		
Additional experts	Business models, strategy		Processes, systems/IT		Derivatives, trading		Tax	

*Legal services are provided by KPMG Rechtsanwaltsgesellschaft mbH.

Contact

KPMG AG
Wirtschaftsprüfungsgesellschaft
THE SQUAIRE
Am Flughafen
60549 Frankfurt/Main

www.kpmg.de

KPMG
Rechtsanwaltsgesellschaft mbH
THE SQUAIRE
Am Flughafen
60549 Frankfurt/Main

www.kpmg-law.de

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. Our services are provided subject to our verification whether a provision of the specific services is permissible in the individual case.

© 2014 KPMG AG Wirtschaftsprüfungsgesellschaft, a subsidiary of KPMG Europe LLP and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in Germany. The KPMG name, logo and "cutting through complexity" are registered trademarks of KPMG International.