ECMI

Drowning in MiFID II Data:
publication arrangements, consolidation and reporting

28 June, 13:00-14:45 | Place du Congrès 1, 1000-Brussels

SUMMARY

The increased reach of MiFID II compared to MiFID I will pose a significant data collection and analysis challenge, not only to market participants themselves, but also to the regulators. As underlined in discussions among participants at an ECMI half-day conference on June 28th, market participants will need to take adequate and timely steps to prepare for MiFID II and to comply with its new regulations on transaction reporting and best execution, from January 2018 onward. On the regulator's side, it is unclear whether ESMA (the European Securities and Markets Authority) will be able to establish a reliable database for reference. This will be the case for instrument identification, specifically. While the LEIs (Legal Entity Identifier) are necessary for the effective enforcement of regulations, they certainly complicate matters for firms, especially those with third-country clients. Overall, while MiFID II has set out to improve price transparency across all asset classes (not only equity and debt, unlike MiFID I), its far-reaching complexity invites justified scepticism about firms' readiness to deliver.

13:00 Pre-/post-trade transparency, transaction reporting and best execution

Market participants will have to comply with pre-trade price transparency (trading venues or systematic internalisers need to provide price transparency, unless waivers apply), post-trade transparency (trades should be reported within 15 minutes of execution, either directly or through an Approved Publication Authority), and transaction reporting (identifying what was traded and by whom, either directly or through an Approved Reporting Management) rules. Regulators will also be tested on how effectively and efficiently they can handle increased volumes of transaction data.

Access to reliable, accurate and timely data will be key to the successful implementation of best execution policies. Selecting the method of best execution while retaining the flexibility to respond to market conditions can create a competitive edge. Execution venues will have to publish best execution quarterly quality reports. Investment firms have new obligations when executing orders, receiving and transmitting orders or when conducting portfolio management services. In an environment of declining access to traditional information flows, the ability to interact seamlessly between automated and voice trading workflows in order to source liquidity will be very important.

- What are the operational challenges that the additional levels of granularity impose? Can transaction platforms report across multiple sources of data in real time?
- What is the industry's state of readiness for the use of LEI in transaction reporting? How complete will ESMA ISIN database be and what difficulties might this present?
- Which part of the best execution provisions is the most challenging (e.g. data sourcing, records retention, cross-asset class transactions, venue on-boarding procedures)?
- Which are the technical and operational challenges among different market participants (professional vs retail) and among different asset classes?

Note: This report was drafted by Dr Apostolos Thomadakis (Researcher, European Capital Markets Institute). This event report is not a transcript of the speakers' interventions; rather, it should be understood as an interpretation of their views by the author.

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Speakers:
John Mason, Head of Regulatory & Market Structure Strategic Response & Propositions, Thomson Reuters
Elena Gaetini, Head of Business Development and Governmental Affairs, RegTek Solutions
David Nowell, Head of Industry Relations & Regulatory Compliance, UnaVista, LSEG
Tom Kennedy, Global Head of Analytics, Thomson Reuters

Moderator **Karel Lannoo**, CEO, CEPS and General Manager, ECMI

John Mason: Much of MiFID II is about data, which is the grease that oils the wheels of MiFID II. Understanding and being able to manage the data will be one of the factors that determine success or failure for the implementation of MiFID II. Transaction reporting is the highest spend to achieve compliance; 40% of all regulatory spending is on regulations of the past, which should have been achieved in the first place. Moreover, one of the biggest issues for regulators is the number of data fields required for a MiFID II perspective (65 compared to the current 24). Regarding the mandatory LEIs, the concern is that in extra territorial jurisdictions (i.e. Russia, Africa, MENA, Asia) there is a serious lack of understanding about LEIs and their necessity before being able to enter European markets. Even though there are about half a million LEIs being issued today, estimates show that this number will increase to up to 2-2.5 million for the system to function efficiently. As for consolidated tape providers (CTPs), it has been noted that regulators will not force that designation on organisations, but rather it will be the providers electing to become CTPs, and most likely at an individual asset class level (e.g. fixed income, etc.).

Elena Gaetini: One thing that it is lacking in MiFID II, compared to other regulations, is clarity about which products need to be reported or not. Despite this lack of clarity, firms should use MiFID II as an opportunity to properly report their transactions across all levels. However, the method and arrangements by which transaction reports are generated and submitted by trading venues and investment firms should include: i) systems to ensure the security and confidentiality of the data reported, ii) mechanisms for authenticating the source of the transaction report, iii) precautionary measures to enable the timely resumption of reporting in the case of failure of the reporting system, iv) mechanisms for identifying errors and omissions within transaction reports, v) mechanisms to avoid the reporting of any transaction where there is no obligation to report or unreported transactions for which there is an obligation to report. Regarding the implementation date of 3 January 2018, given that it will not be postponed, firms should ensure that reporting is performed in line with the regulation. Close cooperation between regulators and corporations is vital if they are to meet the challenge of handling a much greater volume of data.

David Nowell: One of the biggest criticisms of MiFID I was that it was an equity template, despite the fact that it was initially supposed to capture all asset classes. This is the main difference with MiFID II: while at the moment it is only equity and debt, as of next year forex, interest rate, and commodity derivatives will also be included. Moreover, moving from 23/24 fields to 65 (or even more) presents a huge challenge. There will be a fundamental change in the way reports are constructed: we will not have buy-sell indicators but buying-selling entities instead, and we will no longer have counterparties but new trading capacities. Turning to the data challenges, there are three areas that could go wrong: instrument identification (especially for OTC derivatives that are not traded on a trading venue); organisation identification; and personal identification (currently the client identifier is optional). These pose questions for how good and reliable ESMA's reference database would have to become to support the new amount of data (create the ISIN, post it in the correct

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format, send it to ESMA, ESMA disseminate it to industry and NCAs). Moreover, concerning LEIs, there are two major problems: i) making sure that all individual funds have an LEI, ii) clients based outside the EEA need to have an LEI, even if it is not a requirement in their jurisdiction. To conclude, considering the current problems in transaction reporting – even though it is only equity and debt, only 24 fields and a mature ten-year-old regime, it is extremely difficult for all stakeholders to move forward.

Tom Kennedy: It is amazing how interconnected all parts of MiFID are, from trade reporting and transaction reporting to best execution and Systemic Internaliser (SI) determination. However, there are significant differences between MiFID I and MiFID II in the area of best execution: requirements (from 'all reasonable steps' to 'sufficient steps'); instrument scope (from equity to all asset classes); and sentiment (introduction of price transparency and discovery, as well as best execution across non-equity asset classes). The main factors that will play an important role in best execution are: price (consolidated prices), speed (latency), costs (implicit and explicit), size (order size), execution and settlement (likelihood), and the type of order (buy, sell, limit, order facilitation, etc.). All these factors and the data that need to be collected to comply with the best execution rules bring further complexity and challenges for the industry (firms, clients and regulators). Regarding client categorisation and onboarding, firms should have in place product suitability checks to ensure that the right product is sold to the right client. This requirement applies in any type of financial instrument and to both retail and professional clients. In addition, one of the biggest challenges to best execution monitoring is proving best execution on an asset that doesn't trade very often, such as OTC derivatives and illiquid instruments. Two potential approaches to achieve price discovery in such cases are: mark-to-model and proxy instruments. While MiFID II is increasing the data and technology pressure on firms, compliance with the regulation would only be possible with access to good quality data (market data, historical data, real-time data, reference data, trade data, and client data).

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