

# Markets in financial instruments: certain dates

2016/0033(COD) - 10/02/2016 - Legislative proposal

**PURPOSE:** to extend the date of entry into application of both instruments that are comprised in MIFID II on markets in financial instruments.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** [Directive 2014/65/EU](#) ('MiFID') together with [Regulation \(EU\) No 600/2014](#) ('MiFIR') was adopted in the wake of the financial crisis. MiFID and MiFIR, collectively referred to as **MiFID II**, covers securities markets, investment intermediaries and trading venues. The new framework reinforces and replaces the current MiFID framework ([Directive 2004/39/EC](#)).

Member States need to transpose the Directive by 3 July 2016. **Both MiFID and MiFIR are scheduled to apply as of 3 January 2017.**

During the legislative process, the very high level of complexity of the MiFID II package and the need for a significant number of implementing measures were recognised. To this end, a period of 30 months was foreseen between the adoption and the entry into application, instead of the usual 18-24 months.

Despite this unusually long period, ESMA has made clear to the Commission that the technical implementing challenges are of such magnitude that essential data infrastructures will not be in place in time for 3 January 2017. This is a result of **significant challenges in collecting the data** that is necessary for the operation of the MiFID II rules.

The absence of data has ramifications across multiple areas of MIFID II. As regards market regulation, it is clear that without the foundation of reference data (instrument ID) and the additional data infrastructures for transparency calculations and position reporting in place, it will not be possible to apply the majority of the market rules.

In order to ensure legal certainty and avoid potential market disruption, urgent action is therefore needed to **adjust the date of entry into application** for MiFID II

**CONTENT:** the purpose of the draft proposal amending Directive 2014/65/EU is to **extend the entry into application of both instruments** that are comprised in the MIFID II package as a result of the technical implementation challenges met by the European Securities and Markets Authority ('ESMA'), national competent authorities ('NCAs') and stakeholders.

In order to enable ESMA, NCAs and stakeholders to complete the operational implementation, the Commission considered it appropriate to defer the date by which the Member States need to apply the measures transposing Directive 2014/65/EU and the date by which the repeal of Directive 2004/39/EC is to take effect by **12 months until 3 January 2018**. Reports and reviews should be deferred accordingly.

The Commission stated that an extension of one year should provide sufficient and reasonable time for ESMA, NCAs and operators to put in place the infrastructure for data collection, reporting and the transparency threshold calculations.