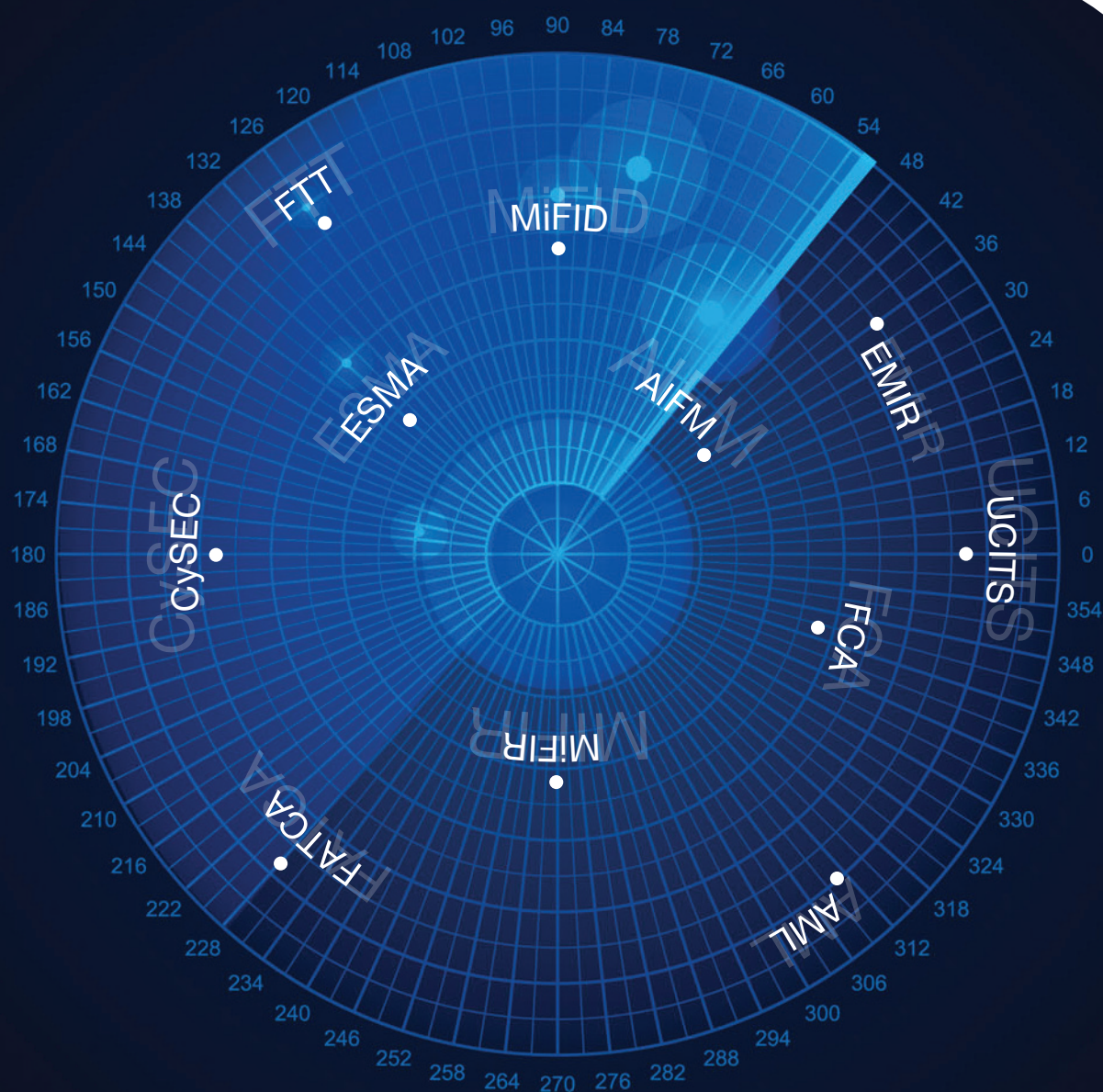


REGULATORY RADAR

Periodical round-up on major regulatory and legislative developments in the EU and Cypriot financial services sector





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60 Second Summary

1. Developments in the EU Financial Services Legislation Affecting Investment Firms

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 - MiFID II applied from 3 January 2018. National transposition was required by 3 July 2017. Questions and answers and guidance continue to be developed
- **EMIR**
 - Mandatory margin requirements for non-cleared OTC derivatives introduced on a staggered basis: variation margin already effective except that requirements for physically settled FX forwards (as newly defined in MiFID II) will apply from 3 January 2018; initial margin from 4 February 2017 to 1 September 2020
 - European Supervisory Authorities review variation margin exchange for physically-settled FX forwards under EMIR: non- financial institutions will be exempt; Member States' national competent authorities can apply regulatory forbearance in the meantime
 - Commission has made proposals to revise EMIR
- **PRIIPS**
 - PRIIPS Regulation applied from 1 January 2018; further guidance issued

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- Political agreement reached on the Fifth Anti-Money Laundering Directive

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1. Developments in the EU Financial Services Legislation Affecting Investment Firms

I. MiFID II

The MiFID II legislative proposal consists of an amending Directive (MiFID II) and a new regulation (the Markets in Financial Instruments Regulation = MiFIR) (together MIFID II). The final texts of [MiFID II](#) and [MiFIR](#) were published in the Official Journal on 12 June 2014. These texts are often referred to as “Level 1” texts; further detail is provided in subsequent, secondary legislation often referred to as “Level 2” texts.

National transposition was due to take effect from 3 July 2017.

The application date of the entire MIFID II and MIFIR package is **3 January 2018**.

MiFid II/MiFIR data available

The European Securities and Markets Authority (ESMA), in cooperation with national competent authorities (NCAs) in the European Economic Area (EEA), have overseen the launch of the MiFID II and MiFIR on Wednesday 3 January.

A key element in ensuring the new regime functions properly is ensuring the availability of data to market participants – firms and trading venues – and NCAs. This data is now available on ESMA's [website](#) and will be continuously updated.

MiFIR – BoE, FCA and BaFin statements regarding CCPs and trading venues

Under Article 54(2) of MiFIR, an EU Central Counterparty (CCP) or a trading venue may apply to its Competent Authority for a transitional arrangement in relation to exchange-traded derivatives (ETDs), under which the open access requirements of Articles 35 or 36, respectively, of MiFIR would not apply until July 2020.

On 3 January 2018, the Financial Conduct Authority (FCA) published a [statement](#) relating to the applications it has received under Article 54(2) of MiFIR from two trading venues: ICE Futures Europe and the London Metal Exchange (LME).

The Bank of England (BoE) is the UK Competent Authority for UK-based CCPs. Separately, the BoE has updated its [webpage](#) on financial market infrastructure supervision in relation to applications it has received under Article 54(2) of MiFIR from ICE Clear Europe Ltd and LME Clear Ltd, both of which are BoE-recognised central counterparties (CCPs).

The FCA and BoE have considered the relevant applications and having taken into account the risks resulting from the application of the access rights under:

- Article 36 of MiFIR as regards ETDs to the orderly functioning of ICE Futures Europe and the LME, as required by MiFIR, the FCA has decided to agree a transitional arrangement in respect of these trading venues. Under this arrangement, ICE Futures Europe and LME will not be required to consider open access requests made under Article 36 of MiFIR, to the extent they relate to ETDs; and
- Article 35 as regards ETDs to the orderly functioning of ICE Clear Europe and LME Clear, as required by MiFIR, the BoE has decided that Article 35 will not apply to these CCPs in respect of ETDs for a transitional period.

In addition, the German Federal Supervisory Authority (BaFin - Bundesanstalt für Finanzdienstleistungsaufsicht) has [announced](#) that Article 35 of MiFIR will not apply for a transitional period to Eurex Clearing AG in respect of ETDs.

In each case, the decision takes effect on 3 January 2018 and the transitional period expires on 3 July 2020.

ESMA clarifies trading obligation for shares under MIFID II

On 13 November 2017, ESMA updated its [Question and Answers](#) (Q&As) regarding the implementation of MiFID II. The update clarifies the application of the trading obligation for shares to trade certain instruments on-venue.

MiFIR introduces a trading obligation for shares that will require investment firms to ensure that the trades they undertake in shares admitted to trading on a regulated market, or traded on a trading venue, take place on a regulated market, MTF, systematic internaliser, or an equivalent third-country trading venue.

Given the importance of this provision and its correct implementation amongst market participants, ESMA is publishing a Q&A clarifying that all EU investment firms that are part of a chain of transmission should ensure that the ultimate execution of the order complies with the trading obligation requirements under Article 23(1) of MiFIR.

ESMA is aware that the scope of the trading obligation in Article 23, and the absence of the relevant equivalence decisions, might cause issues for investment firms that wish to undertake trades in non-EEA shares in the primary listing venues of such shares. ESMA and the European Commission are working closely together to resolve those issues. While the Commission is preparing equivalence decisions for the non-EU jurisdictions whose shares are traded systematically and frequently in the EU, the absence of an equivalence decision taken with respect to a particular third country's trading venues indicates that the Commission has currently no evidence that the EU trading in shares admitted to trading in that third country's regulated markets can be considered as systematic, regular and frequent. See below for equivalence decisions.

MiFID II - Equivalence decisions in OJ

The European Commission implementing decisions on the equivalence of the legal and supervisory framework in [Australia](#), [Hong Kong](#), the [US](#) and [Switzerland](#) applicable to financial markets in accordance with the amended MiFID II, have been published in the Official Journal of the EU (OJ).

The EU trading obligation applies to shares listed on both exchanges in the recognised countries and in the EU (dual listings), on condition that trading in the EU constitutes a significant percentage of the share's global trading volume. The equivalence decisions ensure that MiFID II investment firms can continue to access the liquidity in dual listed shares outside the EU. The Commission stated that there is no current evidence that shares listed only on exchanges in Australia, Hong Kong, the US and Switzerland (single listings) trade significantly in the EU. Therefore, trading in these shares can continue as previously.

The Commission is assessing the EU trading volumes of shares listed in other financial centres around the world. These assessments should be concluded shortly and decisions will be adopted where the Commission is of the view that this is necessary.

ESMA publishes MIFID compliance function peer review results

On 29 November 2017, ESMA published the results of its [Peer Review on the Guidelines on certain aspects of the compliance function under MiFID \(Guidelines\)](#). The Guidelines cover NCAs supervision of investment firms' compliance functions, particularly how those functions carry out risk assessments, monitor compliance obligations, report to senior management and fulfil their advisory role.

The Review found a high level of compliance by the majority of EEA NCAs with the Guidelines, although significant weaknesses were identified in the supervisory approaches of Cyprus, Iceland and the Netherlands. Additionally, the Review identified a number of good practices by a number of NCAs in their supervision. ESMA will follow up regarding the points of insufficient compliance and partial compliance with the relevant NCAs.

Peer Review

The ESMA Supervisory Convergence Work Programme 2016 included a peer review on the Guidelines to assess compliance by the NCAs, identify good practices and potential areas for improvement.

The work involved assessing the approaches of thirty-one EEA NCAs to supervising investment firms' compliance functions, against the Guidelines requirements, and covered the period from 1 July 2014 to 30 June 2016. The assessment also involved on-site visits to the NCAs of Austria, Cyprus, Denmark, France and Slovakia.

The Review positively assessed 27 NCAs regarding the supervision of how the compliance function performs risk assessments, monitors compliance obligations and provides reports to senior management. While 22 NCAs were positively assessed on their supervision of the compliance function's advisory role, which includes support for staff training, day-to-day assistance for staff and participating in the establishment of new policies and procedures within the investment firm.

ESMA found diversity in the supervisory approaches applied by NCAs, showing a different reliance on the compliance function as a key source of information on the firms' compliance with MiFID requirements. For many authorities the compliance function was generally not the main target in supervisory reviews but an ancillary target of supervision of firms' obligations under MiFID.

Good practices identified

Good practices identified during the peer review will help in enhancing supervisory convergence across EEA NCAs. Key good practices identified included:

- the pre-screening by NCAs of compliance officers;
- clear communications by NCAs of expectations to the compliance function at the authorisation stage; and
- NCAs undertaking on-site visits shortly after the firm's authorisation, in particular for riskier firms.

The report provides a detailed assessment of the effective application of the Guidelines and the capacity of the NCAs to respond to market developments. It also assesses the capacity of NCAs to achieve high quality supervisory outcomes, including the adequacy of resources.

ESMA opinions on third-country trading venues regarding post-trade transparency and position limits

On 15 December 2017, ESMA published two revised opinions providing guidance related to third-country trading venues for [post trade transparency](#) and [position limits](#) under MiFIDII/MiFIR.

The opinions address the treatment of transactions executed by EU investment firms on third-country trading venues, for post-trade transparency under MiFIR, and the treatment of positions held in contracts traded on those venues for the position limit regime under MiFID II.

The revised opinions state that, pending an ESMA assessment of more than 200 third-country trading venues under the criteria in the two opinions, transactions on third-country trading venues do not need to be made post-trade transparent and/or positions held in those third-country venue contracts are not considered to be economically equivalent over-the-counter (EEOTC) contracts.

ESMA will carry out the determination of third-country trading venues and publish the results in the course of 2018.

ESMA updates its MiFID II Q&As

On 18 December 2017, ESMA has updated two questions and answers (Q&As) documents regarding [market structure](#) and [transparency topics](#) under MiFID II.

This update on market structure includes new answers regarding:

- The scope of the tick size regime;
- Application of MiFID II after 3 January 2018, including issues of 'late transposition';
- Equity transparency;
- Non-equity transparency; and
- Pre-trade transparency waivers.

On 18 December 2017, ESMA updated its [Questions and Answers \(Q&A\)](#) document on the implementation of investor protection topics under MiFID II. The overall MiFID II Q&A provide clarifications on the following topics:

- Best execution;
- Suitability and appropriateness;
- Recording of telephone conversations and electronic communications;
- Post-sale reporting;
- Record keeping;
- Investment advice on an independent basis;
- Inducements (research);
- Information on charges and costs;
- Underwriting and placement of a financial instrument;
- Client categorisation;
- Inducements;
- Provision of investment services and activities by third country firms; and
- Application of MiFID II after 3 January 2018, including issues of late transposition.

On 18 December 2017, ESMA updated two questions and answers (Q&As) documents regarding [data reporting](#) under MiFID II and regarding MiFID II [commodity derivatives topics](#).

The updated Q&As regarding MiFIR data reporting is intended to clarify:

- transaction reporting for primary issuances;
- corporate events;
- portfolio management; and
- swaps related to indices.

ESMA statement on Legal Entity Identifiers

On 20 December 2017, ESMA issued a [statement](#) to support the smooth implementation of Legal Entity Identifiers (LEI) requirements under MiFIR.

MiFIR obliges EU investment firms to identify their clients that are legal persons with LEIs for the purpose of MiFID II transaction reporting. Trading venues equally are obliged to identify each issuer of a financial instrument traded on their systems with an LEI code when making daily data submission to the Financial Instruments Reference Data System (FIRDS).

In the last weeks, ESMA and NCAs learnt that not all investment firms would succeed in obtaining LEI codes from all their clients ahead of the entry-into-force of MiFIR on 3 January 2018. The same may be the case for trading venues of non-EU issuers whose financial instruments are traded on European trading venues.

In that context, and to support the smooth introduction of the LEI requirements, ESMA will allow for a temporary period of six months that:

- investment firms may provide a service triggering the obligation to submit a transaction report to the client, from which it did not previously obtain an LEI code, under the condition that before providing such service the investment firm obtains the necessary documentation from this client to apply for an LEI code on his behalf; and
- trading venues report their own LEI codes instead of LEI codes of non-EU issuers currently not having their own LEI codes.

This approach is shared by ESMA and National Competent Authorities.

II. MARKET ABUSE REGULATION

The latest version of the ESMA [questions and answers on the Market Abuse Regulation](#) is dated 14 December 2017.

III. EMIR

EMIR review

On 28 November 2017, the Council of the EU has published its presidency [compromise proposal](#) for the Regulation amending **EMIR** as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for over-the-counter derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (EMIR review – part 2). The original [European Commission proposal](#) is dated 4 May 2017.

ESMA EMIR Q&As

On 14 December 2017, ESMA updated its [EMIR Q&A](#) in relation to guidelines regarding post-trading regulation under EMIR. The updated Q&A includes new answers in relation to:

- Indirect clearing;
- Reporting of collateral;
- Swap reporting to trade repositories; and
- Contracts with no maturity.

European Supervisory Authorities issue final draft RTS amending margin requirements for non-centrally cleared OTC derivatives

On 18 December 2017, the European Supervisory Authorities (ESAs) published their jointly developed [draft Regulatory Technical Standards \(RTS\) amending the framework of the European Market Infrastructure Regulation \(EMIR\) with regard to physically settled foreign exchange \(FX\) forwards](#). These amendments aim at aligning the treatment of variation margin for physically-settled FX forwards with the supervisory guidance applicable in other key jurisdictions.

The draft RTS amend the risk mitigation techniques related to the exchange of collateral to cover exposures arising from non-centrally cleared over-the-counter (OTC) derivatives with respect to physically settled FX forwards.

The current framework is based on the ESAs' RTS published on 8 March 2016, adopted by the Commission as a Delegated Regulation on 4 October 2016, which entered into force on 4 January 2017. The Delegated Regulation would require, from 3 January 2018 onwards, the mandatory exchange of variation margin for physically-settled FX forwards for all the counterparties within the scope of EMIR.

However, the ESAs have been made aware of the challenges certain end-user counterparties are facing to exchange variation margin for physically settled FX forwards. In particular, the adoption of the international standards (i.e. the framework developed by the Basel Committee on Banking Supervision (BCBS) and the International Organisation of Securities Commissions (IOSCO)) in other jurisdictions through supervisory guidance has led to a more limited scope of application than the one proposed by the ESAs.

In the light of this, the ESAs undertook a review of the RTS and amended them to align the treatment of variation margin for physically-settled FX forwards with the supervisory guidance applicable in other key jurisdictions.

Specifically, the amendment of the RTS and their subsequent implementation would reiterate the commitment to apply the international standards with a more comparable scope to that of other key jurisdictions. In particular, this would imply that the requirement to exchange variation margin for physically settled FX forwards should target only transactions between institutions (credit institutions and investment firms).

IV. PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS (PRIIPs)

On 20 November 2017, the ESAs have published updated [questions and answers](#) (Q&As) on the Key Information Document (KID) requirements for PRIIPs laid down in the European Commission's Delegated Regulation (EU) 2017/653.

The Q&A document includes answers to questions on the general topics, market risk assessment, market risk measure class determination, methodology for assessing credit risk, summary risk indicator, performance scenarios, derivatives and multi-option products.

The ESAs will continue to answer further questions and will subsequently publish them.
MAP S.Platis will continue to monitor all developments.

2. Anti-Money Laundering

The Fifth Anti-Money Laundering Directive

On 15 December 2017, the European Parliament and the Council reached a political agreement on the [Commission's proposal](#) to further strengthen EU rules on anti-money laundering and counter terrorist financing.

Věra Jourová, Commissioner for Justice, Consumers and Gender Equality said: “The Panama Papers and the recent terrorist attacks have shown that we urgently need better Anti-Money Laundering rules. Today’s agreement will bring more transparency to improve the prevention of money laundering and to cut off terrorist financing. Better cooperation to fight these crimes will make the difference. I will also make sure that the existing and upcoming rules are enforced properly, otherwise they are just empty words. “

This revision of the [Fourth Anti-Money Laundering Directive](#), aims at:

- increasing transparency on who really owns companies and trusts by establishing beneficial ownership registers;
- preventing risks associated with the use of virtual currencies for terrorist financing and limiting the use of pre-paid cards;
- improving the safeguards for financial transactions to and from high-risk third countries;
- enhancing the access of Financial Intelligence Units to information, including centralised bank account registers.

The proposal was presented by the Commission in July 2016 in the wake of terrorist attacks and the revelations of the Panama Papers scandal, and is part of the Commission’s [Action Plan](#) of February 2016 to strengthen the fight against terrorist financing. It sets out a series of measures to better counter the financing of terrorism and to ensure increased transparency of financial transactions.

The next step is for the European Parliament and the Council to formally adopt the Fifth Anti-Money Laundering Directive. (The Fourth Anti-Money Laundering Directive came into entered into force on 25 June 2015. Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with MLD4 by 26 June 2017.

3. EU Financial Transaction Tax (FTT)

Political decisions on the FTT are being postponed until the EU’s future relationship with the UK is settled. This does not mean the end of FTT negotiations, with technical meetings on scope and further implementation mechanisms still ongoing.

4. Taxation

There was no further public information since July 2017 on FATCA or CRS. Please refer to [Issue 16](#) of MAP S.Platis Regulatory Radar for the latest information on FATCA and CRS.

5. Fund Regulation

UCITS and AIFMD

ESMA updated Q&As

On 5 October 2017, ESMA published an updated [questions and answers document \(Q&A\) for UCITS](#). The UCITS Q&A includes one new question and answer on:

- periodic reporting under Article 13 of the SFTR for UCITS and AIFs to investors on the use of SFTs and total return swaps.

AIFMD - ESMA updated Q&As

On 5 October 2017, ESMA published an updated [questions and answers document \(Q&A\) for AIFMD](#). The AIFMD Q&A includes three new Q&As on:

- the application of remuneration disclosure requirements to staff of the delegate of an AIFM to whom portfolio management or risk management activities have been delegated;
- the manner of disclosure of AIFM delegates' staff remuneration in annual reports; and
- periodic reporting under Article 13 of Securities Financing Transactions Regulation (SFTR) for UCITS and AIFs to investors on the use of SFTs and total return swaps.

UCITS share classes - 30 July 2017

On 30 January 2017, the European Securities and Markets Authority (ESMA) issued an [Opinion](#) on the extent to which different types of units or shares (share classes) of the same UCITS fund can differ from one another, having found diverging approaches in different EU countries.

On 30 ESMA is of the opinion that share classes which do not comply with these new principles should be closed for investment by new investors from **30 July 2017**, and for additional investment by existing investors from **30 July 2018**.

Money market funds

On 13 November 2017, following an earlier consultation, ESMA published a [final report](#) on its technical advice, implementing technical standards (ITS) and guidelines under the Regulation on money market funds (MMF Regulation).

The key requirements relate to asset liquidity and credit quality, the establishment of a reporting template and stress test scenarios carried out by MMF managers. The final report includes:

- technical advice relating to liquidity and credit quality requirements applicable to assets received as part of a reverse repurchase agreement;
- ITS relating to the development of a reporting template containing all the information that managers of MMFs are required to send to the national competent authority of the MMF; and

- guidelines on common reference parameters of the scenarios that need to be included in the stress tests that managers of MMFs are required to conduct.

The MMF Regulation enters into force on 21 July 2018.

6. UK – Developments of Interest to Investment Firms

FCA issues a “Dear CEO” letter - Providers and distributors of CFD products: resolving failings which may cause significant consumer harm

Following the conclusion of a project that assessed whether Contracts For Differences (CFDs) providers and distributors deliver the CFD product to the intended target market, pay due regard to the interests of customers and treat them fairly, the FCA published a [Dear CEO letter for the attention of all CFD firms](#) that provide or distribute these financial instruments to retail customers.

FCA warns consumers of the risks of investing in cryptocurrency CFDs and in binary options

The FCA has published two press releases the press releases on [cryptocurrency CFDs](#) and the press releases on [binary options](#), warning consumers of the risks associated with investing in: (i) contracts for differences (CFDs), including financial spread bets, with cryptocurrencies as the underlying investment; and (ii) binary options, which permit a consumer to make a bet on the value or price of a stock, commodity, currency, index, or other assets measurable in financial terms. The time periods involved in these latter investments tend to be very short (often around 30 seconds to five minutes).

The FCA warns that cryptocurrency CFDs, which are regulated by the FCA, have the following risks:

- cryptocurrency prices are volatile;
- investments are sometimes leveraged up to 50:1, with the risk of losing more than an initial investment;
- charges tend to be higher than for other CFD products; and
- there can be more significant variations (compared with currencies) in the pricing of cryptocurrencies used to determine the value of a CFD position.

From 3 January 2018, firms offering binary options will be regulated by the FCA and will no longer be licensed by the Gambling Commission. The FCA's concerns about these products are:

- FCA data suggests most consumers lose money when trading binary options;
- the short duration of trades means it may be difficult for consumers to value these products accurately;
- similarity to fixed odds bets, along with short duration of contracts, means they can be addictive and can result in accumulation of significant losses;
- firms usually benefit when consumers lose, placing firms' interest in direct conflict with consumers', thus increasing risk of misconduct; and
- they are a significant source of fraud in the UK.

7. EU – Developments in the interest of CFDs and Binary Options providers

On 15 December 2017, ESMA issued a [statement](#) updating on its work in relation to the sale of CFDs, binary options and other speculative products to retail investors: “Statement on preparatory work of the European Securities and Markets Authority in relation to CFDs and binary options offered to retail clients.”

ESMA is issuing this statement to provide an update on its work in relation to the provision of contracts for differences (CFDs), including rolling spot forex, and binary options to retail clients.

ESMA has been concerned about the provision of speculative products such as CFDs, including rolling spot forex, and binary options to retail clients for a considerable period of time and has conducted ongoing monitoring and supervisory convergence work in this area. Some competent authorities have also adopted national measures to limit the provision of these products to retail clients.

Notwithstanding these actions, ESMA remains concerned that the risks to investor protection are not sufficiently controlled or reduced. Further to the ESMA statement published in June 2017, ESMA is considering the possible use of its product intervention powers under Article 40 of MiFIR to address these investor protection risks. In particular, ESMA is considering measures to:

1. prohibit the marketing, distribution or sale to retail clients of binary options; and
2. restrict the marketing, distribution or sale to retail clients of CFDs, including rolling spot forex.

The restrictions on CFDs currently under review are:

- leverage limits on the opening of a position between 30:1 and 5:1, whose limit will vary according to the volatility of the underlying asset;
- a margin close-out rule;
- negative balance protection to provide a guaranteed limit on client losses;
- a restriction on benefits incentivising trading; and
- a standardised risk warning.

ESMA will conduct a brief public consultation in January 2018 on this matter.

Any product intervention measure adopted by ESMA under Article 40 of MiFIR can have an initial duration of up to three months and is renewable.

8. CySEC Developments

Directive DI144-2014-16 regarding the prudential supervision of CIFs excluded from the scope of Regulation (EU) No. 575/2013)

On 12 October 2017, CySEC issued [Directive DI144-2014-16](#) (in Greek) regarding the prudential supervision of Cyprus Investment Firms (CIFs) excluded from the scope of Regulation (EU) No. 575/2013.

Specifically, the aforementioned Directive affects CIFs which:

- are not authorised to provide safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management and
 - provide only one or more of the following investment services and activities:
 - Reception and Transmission
 - Investment Advice
- and are not permitted to hold money or securities belonging to their clients and which for that reason may not at any time place themselves in debt with those clients

In light of the above, the aforementioned affected CIFs now have the obligation to submit **Form 144-14-10** (which was issued by CySEC) by **11 February** for the previous year based on unaudited financials. Furthermore and upon finalisation of the Audited Financial Statements, if there is a significant difference between unaudited and audited figures, then the abovementioned Form will have to be submitted again to CySEC.

Furthermore, CySEC has also issued further guidance for the electronic submission of the capital adequacy forms. In particular, CIFs are **now** required to exceptionally submit immediately to CySEC the COREP Forms together with the relevant documentation (Trial Balance, Balance Sheet, Profit and Loss account) when the own funds of the CIF decrease below the limits.

Warning to Investors on Trading In Virtual Currencies

Following on an [announcement](#) issued by CySEC on 18 March 2014, regarding the risks associated when buying, holding, exchanging or trading on virtual currencies, CySEC issued an [announcement](#) on 13 October 2017 warning again investors regarding this matter.

CySEC notes that trading on virtual currencies or on CFDs relating to virtual currencies is not suitable for all investors and as such investors must always ensure that are fully aware of the specific characteristics and risks associated with virtual currencies. In addition, CySEC emphasises that there are no specific EU regulatory provisions that would protect existing and/or potential investors who trade on these products.

Furthermore, on 15 November 2017, CySEC further issued an [announcement](#) drawing the attention of the investors and of the firms involved in Initial Coin Offerings (ICOs) to an [ESMA press release](#) published on 13 November 2017 on ICOs. ESMA's press release consists of two different statements, one addressed to [firms involved in ICOs](#) and the other addresses to [investors investing in ICOs](#).

ESMA Briefing regarding the Legal Entity Identifier ('LEI')

Further to Circulars [C237](#) and [C238](#), CySEC issued Circular [C245](#) on 16 October 2017, to inform the Reporting Entities and the Issuers that ESMA published on 9 of October 2017, a briefing regarding the LEI.

Please refer to [Issue 17](#) of MAP S.Platis Regulatory Radar for further information on the abovementioned briefing. Further updates surrounding this topic are provided under Section 1(I) of this issue of MAP S.Platis Regulatory Radar.

See also ESMA statement on Legal Entity Identifiers referred to further above.

EBA's Opinion on the design of new prudential framework for investment firms

On 19 October 2017, CySEC issued Circular [C246](#), through which it informed CIFs that European Banking Authority (EBA) published on 29 September 2017, an Opinion on the design and calibration of a new prudential framework for investment firms, which is specifically tailored to the needs of investment firms' different business models and inherent risks.

The Opinion includes a series of recommendations aiming to develop a single and harmonised set of requirements that are reasonably simple, proportionate and relevant to the nature of investment firms authorised to provide MiFID services and activities. It covers the design and calibration of capital and liquidity requirements, consolidated supervision, reporting requirements, the suitability of the proposed framework for commodity derivatives firms and the need of macro prudential tools.

Directives DI144-2007-04(D) for the charges and annual fees

On 20 October 2017, CySEC issued amending Directive DI144-2007-04(D) that specifies the revised fee carried for applications under Section 6(9)(b) of the Investments Services and Activities and Regulated Markets Law 2007-2016 and which are related to trading in virtual currencies and/or trading on contracts for differences relating to virtual currencies.

Application for renewal of digital certificates

CySEC, through the issuance of the above [announcement](#), dated 02 November 2017, informs the current and the upcoming holders of the digital signature certificate that the renewals of the digital certificates, the submission of the application for new digital certificates as well as the token delivery to the users will be done, via the Cyprus Stock Exchange which is the Local Registration Authority of Adacom for the recognized digital certificates.

Requirements of the Spanish Securities and Exchange Commission ('the CNMV') regarding the provision of warnings on complex financial instruments to retail clients resided in Spain

Following Circular [C210](#), issued on 17 May 2017, CySEC further issued Circular [C248](#) on 03 November 2017, urging CIFs to fully comply with the below on the provision of warnings on complex financial instruments to retail clients residing in Spain.

1. CIFs must include the warnings, mentioned in Circular C210, on the homepage of their website and not relegate any warning to other part of their website with less direct access.
2. With regard to the language of the warnings, for those websites that adopt Spanish to advertise the products and services offered, CIFs must place the text of these warnings in the same language, including those corresponding to secondary documents.
3. If CIFs wish to include in their general website – and not in a specific one for each user and transaction – a warning on the “cost of closing the position”, this may be drafted in terms of the mechanism or manner for determining that cost (instead of the exact amount in euros). This will possibly reduce the delay in executing the order in question.

Directive DI87-01 for the Safeguarding of Financial Instruments and Funds belonging to Clients, Product Governance and Inducements

On 06 November 2017, CySEC issued Directive [DI87-01](#) implementing the Commission Delegated Directive (EU) 2017/593 and which determines and specifies the provisions of sections 17 and 25 of the Law 87(I) of 2017 with regard to the safeguarding of client financial instruments and funds, product governance requirements and inducements.

Suspension of Fast Track Examination scheme for the examination of applications for CIF authorisation by CySEC

CySEC, through the issuance of the [announcement](#), dated 23 November 2017, informs all interested parties, that, it decided to suspend the ‘fast track’ examination scheme or the assessment of applications for granting a CIF authorisation in accordance with Section 21 of the Law 144(I)/2007.

ESMA Guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II

On 6 December 2017, CySEC issued Circular [C251](#), through which it informs the Regulated Entities that ESMA published Guidelines on transaction reporting, order record keeping and clock synchronisation under MiFID II.

For more information on the Guidelines, please refer to [Issue 17](#) of MAP S.Platis Regulatory Radar.

MiFID II Issuance of new directives

CySEC, through the issuance of an [announcement](#), dated 18 December 2017, informs interested parties of its intention to issue Directives in relation to:

- The Fees and Payable Charges that fall within the scope of the Law (“CySEC Directive DI87-03”), and
- The provision of services by third country firms to eligible counterparties and professional clients that do not fall within the scope of the MiFIR Regulation (“CySEC Directive DI87-04”)

The aforesaid Directives are attached as appendices to the relevant announcement and written in the Greek language. It is noted that the mentioned Directives have been published by CySEC on 12 January 2018.

In addition, CySEC published Directive DI87-02 for the repeal of certain CySEC Directives. This Directive repeals certain Directives of the Cyprus Securities and Exchange Commission which were issued pursuant to the Investment Services and Activities and Regulated Markets Law of 2007.

ESAs issued ‘The Risk-Based Supervision Guidelines’

On 22 December 2017, CySEC issued Circular [C252](#), where it informs the Regulated Entities that the Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA – ‘ESAs’) published, on the 7th of April 2017, its final guidelines on the characteristics of a risk-based approach to anti-money laundering and terrorist financing (‘AML/CFT’) supervision and the steps to be taken when conducting supervision on a risk-sensitive basis (‘The Risk-Based Supervision Guidelines’).

The Risk-Based Supervision Guidelines will apply from 7 April 2018 and CySEC will incorporate them into its Risk Based Supervision Framework (‘RBS-F’), as appropriate in the relevant AML/CFT risk-based supervision process.

CySEC urges the Regulated Entities to take duly account and read ESAs Risk-Based Supervision Guidelines.

Announcement for the Renewal of the registration 2018

On 8 January 2018, through the issuance of an announcement, CySEC informs regarding the renewal of the registrations in the Public Register of Certified Persons. Specifically, CySEC notes that, in accordance with the Directive regarding the Certification of Persons and the Certification Registers ([174\(I\)/2015](#)), the persons registered in the public register must renew their registration by the end of February each year. In order to renew their registration in the public register, Certified Persons must:

- i. have completed by the end of 2017, continued professional training on relevant topics in respect to their duties of a duration of ten (10) or fifteen (15) hours for the basic or the advanced examination, respectively;
- ii. pay to CySEC the annual renewal fee of eighty (80) euro.

CySEC provides further details regarding of the method of payment of the abovementioned renewal fee and the process to be followed for the renewal of registration.

Finally, CySEC emphasises that certified persons who do not renew their registration for 2018, by the 28th of February 2018, will be automatically deleted from the Public Register and will have to re-register according to paragraph 21 of the above Directive.

Announcement for Form 87-00-21 (Application Fees CIFs)

On 10 January 2018, through the issuance of an [announcement](#), CySEC informs the interested parties that according to the “Law 87(I)/2017 regarding the provision of investment services, the exercise of investment activities and the operation of regulated markets”, has issued the Form 87-00-21, in which the CIF completes the services/activities it intends to provide and it automatically calculates the amount of fee to be paid.

CIFs must use Form 87-00-21 for the correct calculation of the fees to be paid and submit it together with Application Form 87-00-01.

Acronyms & Definitions used

AIF	Alternative Investment Fund under Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers
AIFLNPs	Alternative Investment Funds of Limited Number of Persons
AIFMs	Alternative Investment Fund Manager
AMF	Autorite des Marchés Financiers
ASPs	Administrative Service Providers
BaFin	Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority)
CBC	Central Bank of Cyprus
CDS	Credit Default Swap
CFD	Contracts for Difference
CIF	Cyprus Investment Firm
CNMV	Comisión Nacional del Mercado de Valores (Spanish Securities and Exchange Commission)
Commission	European Commission
CP	Consultation Paper
CySEC	Cyprus Securities and Exchange Commission
DRSP	Data Reporting Service Providers
EMIR	European Market Infrastructures Regulation – Regulation (EU) 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories
EBA	European Banking Authority
ESAs	Joint Committee of the European Supervisory Authorities (EBA, ESMA, EIOPA)
ESMA	European Securities and Markets Authority
ETD	Exchange-Traded Derivative
EU	European Union
FCA	UK Financial Conduct Authority
FCMC	Financial and Capital Market Commission of Latvia
FTT	Financial Transaction Tax
FX	Foreign Exchange
ICF	Investors Compensation Fund
IRS	Interest Rate Swap
ITS	Implementing Technical Standards
KNF	Komisja Nadzoru Finansowego (Polish Financial Supervision Authority)
LIBOR	London Inter bank Offered Rate
MAD	Directive no.2014/57/EU of the European Parliament and of the Council on criminal sanctions for market abuse
MAR	Regulation no. 596/2014 of the European Parliament and of the Council on insider dealing and market manipulation (market abuse)
MiFID	Markets in Financial Instruments Directive – Directive 2004/39/EC of the European Parliament and the Council
MiFID II	Directive no. 2014/65/EU of the European Parliament and of the Council on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council (compromise reached, number to be assigned)

MiFIR	Regulation no. 600/2014 of the European Parliament and of the Council on markets in financial instruments and amending Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories [EMIR]
MMF	Money Market Fund
NDF	Non-deliverable forwards
Official Journal	The Official Journal of the European Union
OTC	Over-the-Counter
Q&As	Questions and Answers
PRIIPS	Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products
RTS	Regulatory Technical Standards
SFT	Securities Financing Transaction
TA	Technical Advice
UCITS	Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)
UCITS MCs	UCITS Management Companies
UCITS V	Directive of the European Parliament and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions
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