FREQUENTLY ASKED QUESTIONS ABOUT EUROPEAN SECURITIES LEGISLATION

Who is affected by European securities legislation?

European securities legislation applies not only to European issuers of securities and European providers of investment services but also affects:

- issuers from outside Europe that raise capital in Europe through institutional and/or retail offerings;
- issuers with Euro MTN Programs (*see* "Frequently Asked Questions - European Medium Term Note Programs") or Euro commercial paper programs; and
- issuers of securities listed on a European exchange, such as the London Stock Exchange, the Irish Stock Exchange and the Luxembourg Stock Exchange.

What is the framework for European securities legislation?

The Financial Services Action Plan of the European Union (the "EU") was drafted with the intention of creating a single European wholesale capital market which issuers could access effectively and which would harmonize prudential rules and supervision in European financial services. In addition, the Capital Markets Union Action Plan was launched in 2015 with an objective to, amongst others, establish a genuine single market in the European Economic Area (the "EEA") and facilitate cross-border investments.

What are the core pieces of European securities legislation?

Under the Financial Services Action Plan, the most important European legislative provisions in respect of the securities market are the Prospectus Directive, the Market Abuse Regulation (the "MAR"), the Transparency Directive (the "TD") and the Markets in Financial Instruments Directive (the "MiFID") and Markets in Financial Instruments Regulation (and together with the MiFID, "MiFID II").

What other EU legislation is relevant to securities offerings?

Although it is not legislation that focuses on securities *per se*, the Packaged Retail and Insurance-based Investment Products Regulation (the "PRIIPs Regulation") will, from 3 January 2018, apply to certain issues of securities, where the return on the investment will fluctuate due to an indirect exposure to an underlying asset or reference value, and will require a short form disclosure document to be provided to any EEA retail investor to whom the security is being offered. (For details of the PRIIPs Regulation, *see* "Frequently Asked Questions About the PRIIPS Regulation").

In addition to the PRIIPs Regulation, where the security is a share, unit or other interest in an alternative investment fund (or "AIF"), if the manager of the AIF is managing or marketing the AIF in the EEA, the Alternative Investment Fund Managers Directive will apply. (For details of the provisions of the Alternative Investment Fund Managers Directive, *see* "Frequently Asked Questions About The Alternative Investment Fund Managers Directive").

What does the Prospectus Directive do?

The Prospectus Directive creates a single EU-wide regime governing the content, format, approval and publication requirements for disclosure and offering documents in respect of securities offerings in the EEA, including the ability to "passport" a prospectus approval from one EEA member state to another. (For details of the provisions of the Prospectus Directive, *see* "Frequently Asked Questions - European Medium Term Note Programs.")

What does the MAR do?

With effect from 3 July 2016, the MAR superseded the Market Abuse Directive, which established rules prohibiting insider dealing and market manipulation. The MAR applies in respect of all financial instruments (as defined below) which are traded on an EU market (whether a regulated market (such as the main market of the London Stock Exchange), a multilateral trading facility (such as the Global Exchange Market of the Irish Stock Exchange) or a new type of market introduced by MiFID II – an organized trading facility), as well as in respect of financial benchmarks. It also includes instruments that may be traded off-market but can have an effect on the above instruments.

What are "financial instruments" in this context?

"Financial instruments" include securities which are negotiable on the capital markets, units in collective investment undertakings, money-market instruments, financial futures contracts (including equivalent cash-settled instruments), forward interest-rate agreements, interest-rate, currency and equity swaps, options to acquire or dispose of any of the foregoing (including equivalent cash-settled instruments), commodity derivatives and emissions allowances. This is a broader category than "securities" which are subject to the insider trading prohibition under Rule 10b-5 of the U.S. Securities Exchange Act of 1934, as amended.

What is the European definition of "insider dealing"?

The insider dealing regime under the MAR prohibits:

- dealing or attempting to deal in financial instruments on the basis of inside information;
- recommending or inducing another person to do any of the above; and
- disclosing inside information other than in the normal exercise of such person's employment, profession or duties (regardless of whether it leads to a trade).

In this context, for the behaviour to be prohibited, it is not necessary for the relevant person to know that the information is inside information (only that they ought to have known), and the relevant behaviour need not itself be on a market.

The insider dealing regime also encompasses a situation where a person with inside information cancels or amends an order in relation to a financial instrument, or recommends or induces another person to do so.

What is the definition of "inside information"?

"Inside information" is defined by the MAR as including:

> "information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers or to one or more financial instruments and, which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments."

It should be noted that the MAR determination of what constitutes "inside information" differs from the determination of "inside information" under U.S. securities laws. The MAR analysis focuses only on the price sensitivity; whereas under the U.S. analysis, the potential effect on price is only one of a variety of factors that may be considered when determining whether non-public information constitutes "material" non-public information. In practice, U.S. and European lawyers often analyze these issues in a relatively fact-specific manner, as the impact of the public dissemination of information upon the market price of a security cannot be known for certain prior to disclosure.

The MAR also includes additional sub-categories of inside information in relation to commodity derivatives, emissions allowances and to information on a client's pending order in financial instruments.

In what circumstances will disclosure of inside information be considered in the normal exercise of employment, profession or duties?

Where inside information is disclosed in the course of a market sounding, the disclosure shall be deemed to be made in the normal exercise of the person's employment, profession or duties, so long as the disclosure complies with some detailed, specific provisions.

What is a market sounding?

For the purpose of the MAR, a market sounding is the communication of information, prior to the announcement of a transaction, in order to gauge the interest of potential investors in a possible transaction and the conditions relating to it, such as its potential size or pricing, where the market sounding is conducted by an issuer or by a secondary offeror of a financial instrument, in such quantity or value that the transaction should be distinguished from ordinary trading and involves a selling method based on the prior assessment of potential interest from potential investors, or by a third party acting on behalf of either of the above persons.

What are the conditions for a market sounding?

The disclosing market participant (the "DMP") must, before conducting a market sounding, assess whether it will involve the disclosure of inside information. If it will involve inside information, the communication from the DMP to the market sounding recipient (the "MSR") must include, *inter alia*:

- a statement that the communication is for the purposes of a market sounding;

- clarification that if the person agrees to receive the sounding, inside information will be disclosed and the MSR is obliged to separately consider for itself whether the information is inside information;
- if possible, an estimation of when the information will cease to be inside information, the factors that might affect that estimation and how the recipient will be informed of any change;
- informing the MSR of its obligation to keep the information confidential and not to trade (or amend a pre-existing instruction to trade) on the basis of it:
- obtaining the recipient's consent to receiving inside information and, subject to that, identifying the information that is inside information.

The same level of information must be communicated to each recipient of each market sounding.

There are also requirements to keep detailed records of certain information in relation to a market sounding for at least five years, and to make those records available to the relevant competent authority on request. The information required to be kept includes:

- a list of all persons receiving information (including contact details), the date/time of the sounding and any follow-up;
- the list of any potential investors refusing to receive any sounding;
- the DMP's written procedures on market sounding;
- all communications with recipients of market soundings, including documents provided to them; and
- if conversations are not recorded, then minutes of the sounding are required, drawn up by the DMP in accordance with a template prescribed by the European Securities and Markets Authority. The minutes should then be agreed to within five business days after the sounding by the DMP and MSR.

What happens if some or all of the above conditions are not observed during a market sounding?

Where inside information is disclosed other than in circumstances where the market sounding conditions are met, such disclosure will still not automatically constitute an offence, although the discloser would not have the benefit of the market sounding safe harbour and would therefore need to ensure that the disclosure is in the normal course of their employment, profession or duties.

What is "market manipulation"?

The MAR prohibitions on market manipulation include the following behaviour:

- effecting transactions or orders to trade or other behavior, which give or are likely to give a false or misleading impression of the supply of, demand for, or price of financial instruments;

- effecting transactions which secure the price of financial instruments at an abnormal or artificial level;

(in each case, unless the relevant person demonstrates that there were legitimate reasons for such behaviour and the behaviour conformed to an accepted market practice established by a competent authority);

- effecting transactions or orders to trade using fictitious devices or other forms of deception; and

- dissemination of information giving a false or misleading impression (including rumours) as to the supply or price of, or demand for, financial instruments where the disseminator knew or should have known that the information was false or misleading.

The above behaviour is prohibited not only in relation to financial instruments (as defined above) but also in relation to:

- certain spot commodity contracts, where the transaction or behaviour has or is likely or intended to have an effect on the price or value of a financial instrument;

- certain financial instruments, including derivatives, where the transaction or behaviour has or is likely to have an effect on the price or value of a spot commodity contract in respect of which the price or value depends on the price or value of those financial instruments; and

- behaviour in relation to benchmarks.

Are there any specific exemptions from the MAR?

The MAR expressly provides that the prohibitions contained on insider dealing and market manipulation do not apply (a) to dealing in one's own shares under a buy-back programme or (b) to the stabilisation of a financial instrument, in each case where such behaviour complies with certain conditions.

In relation to stabilisation action, the MAR specifies particular periods in which stabilisation action can take place, limitations on the price at which securities can be offered as part of the stabilisation action, a maximum proportion (15%) that a greenshoe option may constitute of the original offer, and a maximum proportion (5%) that any other over-allotment (not including a greenshoe option) may constitute of the original offer.

It also specifies particular public disclosure requirements in relation to the stabilisation action.

Failure of the stabilisation action to comply with the specified conditions will not automatically mean that the action will constitute market abuse. However, full compliance with the conditions does provide a "safe harbour" defence to any market abuse allegations.

What other obligations are imposed by the MAR?

The MAR emphasizes the need for prompt public disclosure and, prior to disclosure, control of inside information. In particular, it requires the public disclosure by issuers of inside information as soon as possible. (By comparison, a public company in the United States is generally only subject to an affirmative obligation to disclose material developments when required under stock exchange rules, when a Form 10-K, 10-Q or 8-K must be filed, or when conducting an offering.) An issuer may delay public disclosure so as not to prejudice its legitimate interests, but only if the delay is not likely to mislead the public and the issuer is able to ensure the confidentiality of that information. In this context, where market rumours have begun to circulate, a failure to disclose information may mislead investors. Where disclosure is delayed, the issuer must disclose inside information as soon as any of those conditions no longer applies and immediately thereafter must inform the relevant competent authority of the delay and provide a written explanation of how the conditions for delay were met.

Wherever an issuer, or a person acting on the issuer's behalf, discloses any inside information to any third party in the normal exercise of such person's employment, profession or duties, he or she must also make a complete and effective public disclosure of that information. This public disclosure must be made simultaneously, in the case of an intentional disclosure, or promptly, in the case of a non-intentional disclosure (as is the case with respect to the timing of disclosures under U.S. Regulation FD).

However, public disclosure is not required if the person receiving the information owes a duty of confidentiality (whether based in law or in contract).

In addition, the MAR requires that the issuer maintain a list of "insiders" (*i.e.*, those in possession of, or with access to, inside information). The insiders list must include:

- the identity of any person having access to inside information;
- the reason why any such person is on the list;
- the date and time at which the person obtained access to inside information; and
- the date at which the list of insiders was first created and last updated.

Issuers must promptly update the list of insiders and provide it to the competent authority upon request. The insider list must be updated on a regular basis and kept for at least five years after being prepared.

Are there any specific categories of information that are required by the MAR to be disclosed?

The MAR specifically requires that any persons discharging managerial responsibilities, as well as persons closely connected with them, must notify the issuer and the relevant competent authority of their dealings in the issuer's shares, or debt instruments or derivatives related thereto, no later than three business days after the transactions. The issuer must ensure that such information is made public promptly.

Those responsible for reporting include directors and others who have regular access to inside information and the power to make decisions affecting the business or prospects of the company. They may or may not be the same persons as those included on the insider list.

Are there any exceptions to this disclosure requirement?

Transactions are not notifiable until they exceed EUR 5,000 in aggregate in a calendar year (or such higher amount (up to EUR 20,000 in aggregate) specified by a national competent authority).

Are there any other prohibitions under the MAR?

In addition to the insider dealing and market manipulation offences, a person discharging managerial responsibilities within an issuer is prohibited from conducting any transactions on its own account or for the account of a third party, directly or indirectly, relating to the shares or debt instruments of the issuer or to derivatives or other financial instruments linked to them, during a closed period of 30 calendar days before the announcement of an interim financial report or a year-end report which the issuer is obliged to make public according to national law, or the rules of the trading venue where the issuer's shares are admitted to trading.

What does the TD do?

The TD applies to companies whose securities are listed on an EEA regulated market and their shareholders. It establishes obligations:

- on issuers to publish periodic financial reports prepared in accordance with International Financial Reporting Standards;
- on issuers regarding the manner of dissemination of regulated information;
- on shareholders to notify to issuers information regarding major holdings of listed shares.

Each issuer of securities listed on an EEA regulated market will have a "home member state" for TD purposes. Member states other than the home member state ("host member states") may not impose disclosure requirements on an issuer which are more stringent than those of the issuer's home member state.

In respect of low denomination (below €1,000 or equivalent) debt securities (which do not include convertible or exchangeable securities) and shares, the issuer's home member state, where the issuer is incorporated in a third country, will be the member state where its securities are admitted to trading on a regulated market, or where the issuer is incorporated in the EU, the member state in which it has its registered office. For debt securities which have a minimum denomination of at least €1,000 (or its equivalent), the home member state is selected by the issuer from among the member state in which the issuer has its registered office, where applicable, and those EU member states in which the issuer has securities admitted to trading on a regulated market. Such choices, once made, remain valid for a three-year period, unless the issuer no longer has any securities admitted to trading on a regulated market in its home member state, in which case a new choice of home member state must be made as described above.

What are the obligations regarding financial reporting?

The TD requires that, unless an issuer falls within one of the relevant exemptions, it must publish:

- an annual financial report no later than four months after each financial year end; and
- a semi-annual financial report no later than three months after the first six months of its financial year.

The annual and semi-annual financial reports must be prepared in accordance with international financial reporting standards and national law (where applicable).

What are the available exemptions from these requirements?

The reporting requirements above do not apply to:

- a non-EEA issuer whose home jurisdiction laws are considered "equivalent" to the TD in this regard. Certain countries have been declared to have equivalent laws in this respect, including the United States, Canada, Japan and China; or

- an issuer of (exclusively) high denomination (at least €100,000) debt securities.

What are the content requirements for the required periodic financial reports?

- Annual financial reports must contain:
  - audited financial statements for the financial year;
  - a management report, containing a fair review of the development and performance of the issuer's business and describing the principal risks and uncertainties faced by it; and
  - a responsibility statement, which is a statement of assurance by the relevant personnel of the issuer that the financial statements give a true and fair view of the issuer's assets, liabilities, financial position and profits.
- Semi-annual financial reports must contain:
  - a condensed set of financial statements;
  - an interim management report;
  - a responsibility statement.
- Management reports must contain a fair review of the development and performance of the business and:
  - an indication of important events occurring in the annual or semi-annual period they cover;
  - their impact on the financial statements;
  - a description of the principal risks and uncertainties for the next financial period;
  - (for issuers of shares) details of major "related party" transactions.

What are the TD's requirements as to notification of major shareholdings?

Where a person's interest in shares, measured by control of voting rights (by virtue of acquisition or disposal of shares listed on an EEA regulated exchange and other financial instruments (including derivatives) in respect of those shares), exceeds or falls below one of the specified thresholds, that person has an obligation to notify the issuer of the changes.

Under the TD, these thresholds are 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75%. EEA member states can impose more stringent thresholds, and, in respect of UK issuers, the United Kingdom has imposed thresholds of 3%, 4%, 5% and each 1% thereafter.

The obligation to notify the issuer of changes to major shareholdings extends to any additional securities which entitle the holder to acquire the company's shares with voting rights, such as options, warrants and convertible securities.

The issuer thereafter has an obligation to publish such information promptly through a Regulatory Information Service.

Who is affected by these provisions?

Subject to the exemptions noted below, the share notification provisions are binding on any person, irrespective of whether they are located inside or outside the EEA, if they have an interest in a major holding of shares listed on an EEA regulated market, or in a major holding of shares in a UK company listed on a UK "prescribed market", such as the AIM market of the London Stock Exchange.

What kinds of financial instruments on shares are covered?

Instruments such as physically-settled convertible or exchangeable bonds are covered by these provisions, as are physically settled options, forwards and other derivative instruments on such shares. Also covered are "pure" cash-settled derivative instruments referencing shares listed on an EEA regulated exchange, such as contracts for difference as they are known in the United Kingdom (in addition to those which are settled physically in shares).

Are there any exemptions from these notification provisions?

The notification requirements do not apply to:

- shares acquired for the sole purpose of clearing and settling within the usual short settlement cycle;
- custodians holding shares who can only exercise voting rights attached to such shares under instructions given in writing/ electronically;
- shares acquired/disposed of by a market maker reaching/crossing the 5% threshold;
- voting rights in the trading book where the rights do not exceed 5% and do not intervene in the management of the issuer; and
- voting rights attached to shares acquired purely for stabilisation purposes.

What are the TD provisions regarding dissemination of information?

Where the financial reporting requirements or major shareholding disclosure obligations apply, the TD prescribes rules relating to the methods, conditions and timing of the issuer's dissemination of such information to the public and the competent authority of the home member state.

The most important principles outlined in the TD in this regard are timeliness of disclosure and equality of information – in respect of changes in major shareholdings, the issuer must disseminate the information within a few trading days of becoming (or being deemed to be) aware of the change.

Once again, EEA member states may exempt issuers from countries whose laws are deemed equivalent – again rendering the choice of TD home member state an important one for non–EEA issuers.

What do the MiFID and MiFID II do?

The MiFID sets out high-level provisions governing the organizational and conduct of business requirements that should apply to financial institutions and harmonizing certain conditions governing the operation of regulated financial markets.

The MiFID enables firms to "passport" (*i.e.*, carry on) financial services business throughout the EEA, based on a single permission from the firm's home state. It prohibits host member states from imposing additional local rules on that firm where it provides cross-border services from the home member state into the host member state. However, host member states may still impose additional local rules where a firm establishes a branch in such host jurisdiction.

The MiFID is a maximum harmonization directive, meaning that (with a few limited exceptions) a member-state may not impose additional or more onerous rules than the MiFID prescribes.

On 2 July 2014, there came into force a new Directive (often referred to as the MiFID II Directive) that repeals and replaces the current MiFID Directive, as well as a new Regulation (often referred to as "MiFIR"). In these FAQs, references to MiFID II will mean the legislative package consisting of the MiFID II Directive and MiFIR. These amendments are intended *inter alia* to make financial markets more efficient and resilient, to update the MiFID framework to take into account technological developments since it was enacted, to increase the transparency of equity and non-equity markets and to strengthen investor protection. By 3 July 2017, EEA member states were required to have adopted and published measures adopting the MiFID II Directive into national law and these provisions must apply by 3 January 2018.

Which firms are affected by MiFID II?

MiFID II affects all investment banks and financial institutions with a presence in Europe. This includes non-EEA investment banks and financial institutions if they wish to provide investment services within the EEA, either by establishing one or more EEA branches, or subsidiaries, or by providing such services on a cross-border basis.

What are the main securities-related provisions for investment firms contained in MiFID II?

MiFID II contains provisions concerning:

- client classification;
- suitability of advice/services;
- appropriateness of services/products;
- best execution;
- transaction reporting;
- conflicts of interest;
- product approval, distribution and recommendation; and
- pre- and post-trade transparency.

What are the provisions regarding client classification?

MiFID II requires that firms must categorise their clients as follows:

- eligible counterparties;
- professional counterparties; and
- retail investors.

A client's classification determines the level of protection it receives under MiFID II, with retail investors receiving the most protection and eligible investors the least. An investment firm's obligations towards eligible counterparties consist generally of acting fairly, honestly and professionally and in a way that is fair, clear and not misleading, and providing certain information and suitability reports.

There is some overlap between eligible counterparties and professional counterparties. This is because the eligible counterparty regime is only relevant to the services of receiving and transmitting orders, dealing on one's own account, and executing orders on behalf of clients. Firms can therefore be treated as eligible counterparties for some purposes and professional counterparties for others. It is possible for clients to opt up or down categories, subject to certain safeguards. In particular, a client that would otherwise be treated as a retail client may only be reclassified as a professional client if the firm undertakes a qualitative and quantitative assessment of the client's expertise, knowledge and experience and determines that the client meets certain thresholds for being treated as a professional client. Under MiFID II, municipalities will no longer automatically be treated as professional clients, and therefore will be retail clients, unless "opted-up" specifically, as described above.

What are the provisions regarding suitability?

A suitability obligation is owed wherever a firm provides investment advice or portfolio management services to a client.

The firm must obtain sufficient information in relation to the client's:

- knowledge and experience;
- financial situation; and
- investment objectives.

This suitability obligation is owed to retail clients and professional clients, except that firms can assume that:

- professional clients have the necessary knowledge and experience relevant to the type of investment or service; and
- professional clients (other than "opted-up" retail clients) can financially bear the risk of loss of the investments.

What are the provisions regarding appropriateness?

Whenever a firm provides services (other than investment advice or portfolio management services) to a professional or retail client (but not an eligible counterparty), it owes an obligation to determine the appropriateness of the services for the client. In this regard, the firm must ask the client to provide information about his or her knowledge and experience in the relevant investment field, in order to determine whether the client has the necessary experience and knowledge to understand the risks involved in relation to the product or service.

The appropriateness test is not applied to certain "non-complex" instruments (*e.g.*, shares or bonds admitted to trading on a regulated market or multilateral trading facility or units in undertakings for collective investment in transferable securities ("UCITS") (other than "structured UCITS")) where those instruments are sold on an "execution-only" basis, provided certain conditions are met. The firm is entitled to assume that a professional client has the necessary knowledge and experience for those products or services for which the client has been classified as a professional client.

What are the provisions regarding best execution?

MiFID II requires firms to take all reasonable steps to obtain, when executing orders, the best possible result for their clients, taking into account price, costs, speed and likelihood of execution and settlement, size, nature or other relevant considerations. Under MiFID II, a firm's best execution policy will have to be provided to clients in detail and in clear language that is easy to understand.

This duty is modified in relation to discretionary portfolio managers and to receivers and transmitters of orders, as they do not execute orders. It is not possible to contract out of the duty of best execution, but the duty does not apply when dealing with eligible counterparties.

What are the provisions regarding transaction reporting?

Transactions in any financial instrument admitted to trading on an EEA regulated market, multilateral trading facility or organised trading facility (each a "trading venue") must be reported to the relevant competent authority, *i.e.*, the home member state competent authority for the firm (or the branch of the firm) carrying out the transaction.

The requirements apply even if the transactions are not carried out on a trading venue.

In addition to equity and debt transactions, the reporting obligation includes transactions in commodity, interest rate and currency derivative transactions admitted to trading on EEA trading venues.

The reporting can be made:

- directly by the firm;
- by an approved reporting mechanism on the firm's behalf;
- via the trading venue through whose systems the transaction was completed.

In making the report, a unique legal entity identifier must be used, to identify clients that are legal persons.

What are the provisions regarding conflicts of interest?

The MiFID provides that firms must "maintain and operate effective organizational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest from adversely affecting the interests of clients." More specifically, firms must adopt a conflicts of interest policy which describes the arrangements that they have established to manage conflicts and, where necessary, disclose the policy to their clients. Firms are particularly encouraged to pay attention to proprietary trading as a potential conflict.

In addition, for the first time, under MiFID II any MiFID firm that manufactures financial instruments for sale to clients is required to maintain, operate and review a process for the approval of each financial instrument (and significant adaptations of an existing financial instrument) before it is marketed or distributed to clients. In this context, a "manufacturer" is someone who creates, develops issues and/or designs the financial instrument, and includes an entity that advises issuers on the launch of new financial instruments. A "distributor" is an entity that offers or sells financial instruments or investment services to clients. The product approval process must specify an identified target market of end clients within the relevant MiFID category of clients for each financial instrument and must ensure that the financial instrument is designed to meet the needs of that target market and that the distribution strategy is consistent with the identified target market. The manufacturer must also take reasonable steps to ensure that the financial instrument is actually distributed to the target market.

The manufacturer must also make available to any distributor of the product all appropriate information on the financial instrument and the product approval process, including details of the identified target market.

Where the firm acts as a distributor for financial instruments that it does not manufacture, it must put in place arrangements to obtain information on the financial instrument and its approval process and to understand the characteristics and the target market of each financial instrument.

The distributor must understand the financial instruments it offers or recommends, assess the compatibility of the financial instruments with the needs of the clients to whom it provides investment services (taking into account the target market identified by the manufacturer), and ensure that financial instruments are only offered or recommended when it is in the interest of the client.

What are the provisions regarding pre-trade transparency?

MiFID II states that a firm that qualifies as a "systematic internaliser" in relation to a particular financial instrument must publicly hold out firm offers to buy and sell at specified prices, rather than invite clients to negotiate a deal.

A "systematic internaliser" is a firm that, on an organised, frequent systematic and substantial basis, deals on its own account by executing client orders outside of a trading venue without operating a multilateral system.

The pre-trade transparency obligations in relation to shares, depositary receipts, exchange traded funds, certificates and other similar financial instruments only apply to firms which deal below a standard market size (which will vary depending on the liquidity of the instruments in question).

In respect of bonds, structured finance products, emission allowances and derivatives traded on a trading venue, the obligation to make firm quotes public applies when the firm is prompted by a client for a quote and it agrees to provide a quote.

What are the provisions regarding post-trade transparency?

All EEA investment firms which conclude transactions, whether for their own account or on behalf of clients , in financial instruments such as shares, depositary receipts, exchange traded funds, certificates, bonds, structured finance products, emission allowances and derivatives traded on a trading venue, must make public the volume and price of those transactions and the time at which they were concluded.

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