



COUNCIL OF
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Markets in financial instruments: Council sets out its position

The Permanent Representatives Committee today agreed, on behalf of the Council, its position on new rules on the provision of services for investments in financial instruments and on the operation of regulated financial markets.

The Council is expected to confirm the agreement, without discussion, at its meeting on 21 June. This will enable the presidency to negotiate with the European Parliament with the aim of adopting the texts at first reading.

The "MIFID" proposals are aimed at promoting the integration, competitiveness, and efficiency of EU financial markets. They set out to amend and replace existing rules¹ for markets in financial instruments by two new legislative instruments ([11006/13](#) and [11007/13](#)):

- a *regulation* improving transparency and competition of trading activities by limiting the use of waivers² on disclosure requirements and by providing for non-discriminatory access to trading venues and central counterparties (CCPs) for all financial instruments, and requiring derivatives to be traded on organised venues;
- a *directive* amending rules on the authorisation and organisational requirements for providers of investment services and on investor protection. The directive also introduces a new type of trading venue, the organised trading facility (OTF). Standardised derivatives contracts are increasingly traded on these platforms, which are currently not regulated.

¹ Directive 2004/39/EC

² By setting an overall EU cap and a cap per trading venue.

P R E S S

The proposals set out to ensure that all organised trading is conducted on regulated trading venues: regulated markets, multilateral trading facilities and organised trading facilities. Strengthened requirements are introduced in relation to organisation, transparency and market surveillance in all three types of venue. Transparency requirements are calibrated for different types of instrument, notably equity, bonds and derivatives, and for different types of trading, notably order book and quote-driven systems. Targeted improvements are specifically proposed for commodity derivative markets.

The proposed directive and regulation cover the provision by banks and investment firms of services such as brokerage, financial advice, dealing, portfolio management and underwriting. They are aimed at overcoming problems that have emerged in the implementation of rules that entered into force 2007 and which essentially abolished the possibility for member states to require trading to take place on specific exchanges, enabling competition from alternative venues.

Market and technological developments have outpaced various provisions in MIFID and the trading environment has become more complex. And the 2008 financial crisis exposed weaknesses in the regulation of instruments other than shares, traded mostly between professional investors. Such developments underscored the need for strengthened investor protection.

Whilst remedying such problems, the revision of MIFID will enable the EU to meet commitments made at the G20 summit at Pittsburg in September 2009 to tackle less regulated and more opaque parts of the financial system.

Based respectively on articles 114(1) and 53(1) of the Treaty on the Functioning of the European Union, the draft directive and regulation require a qualified majority for adoption by the Council, in agreement with the European Parliament.