

MiFID II

MiFID II (Directive 2014/65/EU) introduces new reporting obligations and expands existing requirements for investment firms operating in the EU. The reporting regime under MiFID II, in combination with MiFIR (Regulation (EU) No 600/2014), will be much broader in scope and content in comparison to the MiFID I reporting regime currently in place.¹ Third country (“non-EU”) firms and EU firms relying on reporting exemptions set out in MiFID I should assess whether or not their investment services and/or activities fall within the scope of MiFID II. The extent of a firm’s reporting obligations will depend on its provision of, and engagement in, particular services and/or activities outlined in the table below.

Reporting Requirements

Who is subject to MiFID II? EU investment firms, non-EU investment firms acting through an EU branch, and certain other non-EU firms.

Investment firm definition: any legal person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis.²

Reporting Requirement	EU Investment Firms & EU Branches of Non-EU Firms ⁴	Investment Firms without an EU Branch
Transparency	Required	Not Applicable
Transaction	Required	Not Applicable
Position	Required	Required ⁵
Best Execution	Required	Not Applicable

Definition: Investment Services & Investment Activities³

1. Reception and transmission of orders in relation to financial instrument(s)
2. Execution of orders on behalf of clients
3. Dealing on own account
4. Portfolio management
5. Investment advice
6. Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
7. Placing of financial instruments without a firm commitment basis
8. Operation of a multilateral trading facility
9. Operation of an organised trading facility

Transparency Reporting

Information concerning bids, offers, and other trade related data must be published in real-time. In certain circumstances, competent authorities may authorise waiver of pre-trade transparency and deferral of post-trade transparency. Investment firms are required to publish information about OTC trades, while trades occurring on EU venues will be reported by the venues.

Transaction Reporting

Details of transactions in financial instruments must be reported to the relevant competent authority by the close of the next working day. The transaction report, consisting of 65 data points relating to details of the transaction and parties involved, must be provided in accordance with standardized technical specifications.

Position Limits & Reporting

Information on positions held in commodity derivatives or emission allowances/derivatives must be provided to the respective EU trading venue on a daily basis. Firms trading in such instruments are subject to position limits set by competent authorities, and those trading OTC are required to submit daily position reports to the relevant competent authority.

Best Execution Reporting

Information disclosing, for each class of financial instruments, the firm’s top five execution venues in terms of trading volumes must be published annually for all executed retail and professional client orders. Firms must also make public on an annual basis, a summary of its analysis and conclusions regarding execution quality of client orders.

¹ MiFID II and MiFIR are commonly collectively referred to as “MiFID II”.

² Article 4(1)(1) of Directive 2014/65/EU.

³ Annex I, Section A of Directive 2014/65/EU.

⁴ Exemptions for AIFMs, UCITS managers, and other firms may be applicable.

⁵ Non-EU firms may be required to report positions held in commodity derivatives or emission allowances/derivatives that are traded on EU trading venues.