

## MiFID 2 **New rules for investing**

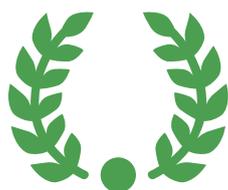
The new European rules for financial markets and investment improve investor protection and make the financial markets more transparent. That is the aim of MiFID 2, the revised directive for financial instruments taking effect in January 2018. This document explains the most important changes for potential and current non-professional investment clients. Banks also inform their customers about the amended rules and what they mean for the provision of their services to investors. The new rules may be a reason for banks to amend policy, conditions and agreements.



**Adjusting the product**  
to the customer



**Understanding investment costs**  
for the customer



**Understanding order execution**  
for the customer



**Reporting and recording**  
customer information



# Adjusting the product to the customer

## Product development

MiFID 2 introduces rules for the development and distribution of investment products. The essence of this is that the bank assesses whether the investment product matches the customer group established by the bank. This assessment may affect the bank's offer of investment products.

## Investment advice

Prior to the investment advice, the bank must inform the customer about a number of matters. The bank will:

- indicate whether the investment advice is dependent or independent;
- clarify whether the advice is based on a comprehensive or limited market analysis;
- tell the customer whether the bank periodically assesses to what extent the recommended investment product is still suitable for the customer;
- provide a report per investment advice explaining why the recommended product is suitable for the customer based on the customer information received. It does not matter whether the investment advice actually follows a transaction.

## Asset management

In most cases, the customer receives quarterly information from the bank about the investment transactions and the result of the investment portfolio. The bank also informs the customer in the event of a drop in value in a portfolio of more than 10 per cent.

## Leveraged products

The obligation to inform customers about drops in value of more than 10 per cent also applies to investments in so-called leveraged products (for example derivatives) and products where you can lose more than you invest. The lever ensures that the profit or loss is higher than when a direct investment is made in the underlying values of the product.

This report is made per instrument unless otherwise agreed with the customer.

## Appropriateness test for self-directed investing

The starting point for self-directed investing is that the bank checks whether a customer has sufficient investment knowledge and experience and understands the risks of self-directed investing and the associated investment products. This is called the 'appropriateness test'. This test is not required if the customer invests exclusively in non-complex investment products such as listed shares, simple bonds and certain investment funds (UCITS). In that case, the bank may decide if the test is used. The 'appropriateness test exemption criteria have been expanded under MiFID 2; more investment products are considered to be 'complex', which means that in practice customers should take an 'appropriateness test more often.

## Bundled products

Bundled products are products that bundle multiple separately available financial services or products into a package. MiFID 2 determines amongst other things that the bank:

- must inform the customer that the various components can be bought separately;
- must indicate the cost of each individual component;
- must explain what the risks of the bundled product are compared to the risks of the individual products or services.

In addition, for self-directed investment, the bank may also have to carry out a appropriateness test or based on advice, the suitability test, which is more extensive than the appropriateness test.



# Understanding investment costs for the customer

## Cost of investing

The bank informs the customer both before and after the investment services about:

- the cost of the investment service;
- the estimated cost of the investment product invested in, by or for the customer.

The bank adds these costs up so that the customer can see the total investment costs. In addition, the bank indicates the effect of the estimated total cost on the expected investment return. The customer can ask the bank to clarify or break down these costs.

## Charge for investment research

Under MiFID 2, there are strict conditions for receiving investment research. The bank may only receive investment research qualifying as commission if paid separately. The cost of investment research can also be charged to customers. However, it may not be part of transaction costs charged to the customer for example.



# Understanding order execution for the customer

## Order execution policy

Based on MiFID 1, banks have already directed their policies towards achieving the best possible result for their customers when executing orders for customers. This is called best execution. Factors that play a role include the price of the financial instrument and the costs as well as the swiftness of execution. The rules for this have been further expanded in MiFID 2. If the bank's execution policy provides for the possibility of executing orders other than on a trading platform, the bank must inform the customer about this and the customer must agree to it. If the bank applies different charges depending on the place of execution, these should be explained to the customer in sufficient detail.

## Reporting on order execution

Under MiFID 2, the bank must report to the customer annually about the quality of orders executed by the bank. This allows customers to form an opinion on how the bank fulfils the best execution obligation.

## Placement of order execution

MiFID 1 already has various types of trading platforms where transactions are carried out. Transactions in certain investment products, shares and standardised derivatives may no longer be performed outside trading platforms. MiFID 2 also introduces a new category of trading platform, which is the Organised Trading Facility (OTF). The bank can also execute a customer's order as a counterparty, which is called 'systematic internalisation'. In that case, the bank may decide who has access to the published bid and offer price. However, the bank must be transparent about the access criteria.

## Transparency before and after trading

A bank acting (for a customer or for itself) as a party outside a trading platform is responsible for the publication of the transactions performed. However, transactions performed on a trading platform must be published by the platform. Under MiFID 2, this transparency obligation, which already applied for shares, has been expanded to other investment products, such as bonds and derivatives. The information is used amongst other things to comply with best execution rules.



# Reporting and recording of customer information

## Transaction report

The obligation to report transactions performed in investment products to the regulator is expanded from products admitted for trading on a traditional trading platform to products traded on other (new) trading platforms. The report to the regulator must provide more information, including data to identify the customer. The bank requires means of identification for this purpose depending on the customer's nationality. This is the passport number for Dutch nationals or if the customer has no passport an identity card number. For legal entities, a Legal Entity Identifier (LEI) must be used, which the customer must apply for from the Chamber of Commerce or another LEI issuer. Banks request this information from their customers. As of 3 January 2018, a bank may no longer carry out transactions for a client that is a legal entity and does not have a LEI.

## Recording customer communication

Banks are required to record telephone conversations with customers and to save digital communication with customers if this might lead to an investment transaction or investment service. Both new and existing customers will be informed about this in advance. The purpose of recording communication is twofold: it helps to detect market abuse and serves as evidence of the order given by the customer and the agreement on the transaction performed by the bank. Banks inform customers that they can request a copy of the communication recorded by the bank for a charge. Recordings and reports are kept for five years in principle, or for a maximum of seven years if the regulator AFM so requests.