

MiFID II: key impacts for the retail market

On 3 January 2018, the existing European legal framework governing financial markets in the EU was replaced with a revised directive and new regulation (together, 'MiFID II').

MiFID II introduces a wide range of changes to the EU regulatory framework and requires investment firms to meet new industry-wide standards.

We recognise that MiFID II represents a fundamental change for our clients and have set out below certain questions and answers on the issues that we believe will be of most interest to you.

Does MiFID II impact investments in Legal & General retail funds?

Yes. MiFID II affects firms such as UCITS management companies and alternative investment fund managers indirectly in areas such as product governance, inducements and client classification. This means that the management companies for our retail funds are affected.

When do I need to conduct appropriateness tests?

The MiFID II rules on appropriateness will affect distributors seeking to sell funds directly or on an execution-only basis.

If funds are deemed complex, distributors need to conduct an appropriateness test in order to sell the funds.

Are the L&G retail funds complex or non-complex?

All UCITS funds are non-complex. The majority of L&G retail funds will therefore be non-complex.

Non-UCITS retail schemes (NURS) must be assessed on an individual basis to see if they meet the tests for being non-complex.

We have analysed our NURS funds which are the L&G Multi Index Funds, the L&G Multi Index Income Funds, the L&G Multi Manager Funds, the L&G UK Property Fund and the L&G UK Property Feeder Fund and they have all been assessed as non-complex.

The FCA considers that it should be for the distributor to assess whether a fund is complex or not, however we understand that distributors will look to us to make that assessment and are likely to follow our lead.

Broadly, non-complex products are:

- shares in companies that are admitted to trading on a regulated market or multilateral trading facility (MTF);

- bonds traded on a regulated market or MTF (except certain complicated bonds);
- money market instruments;
- shares or units in UCITS;
- structured deposits (except certain complicated structured deposits).

How is suitability affected?

The suitability obligations have been further strengthened and have become more detailed. This is because of the addition of the following main requirements:

- firms must provide clients with a statement on suitability prior to the conclusion of the recommended transaction;
- there are further details on conduct rules for firms providing a periodic assessment of the suitability;
- firms performing a suitability assessment must assess, taking into account the costs and complexity, whether equivalent products can meet the client's profile; and

- firms must analyse the costs and benefits of switching from an investment to another.

There is also a strengthened requirement for firms to consider the clients' risk tolerance and ability to bear losses.

Suitability requirements have also been extended to structured deposits.

Where can I find your target market?

Distributors will require information from us on the target market of the funds, i.e. the types of clients for whose needs, characteristics and objectives the fund is compatible.

We have set a target market and a distribution strategy for each regulated fund that we manage and this is shown in the fund factsheets.

We will also send the target market and distribution strategy for each fund to major data vendors and fund platforms using the industry template known as the European MiFID Template (EMT).

Groups like LGIM will share the target market of hundreds of funds and advisers will need to report back to fund managers if they have made recommendations outside of the target market.

We communicated our target market before the end of 2017.

Do I need an LEI?

We have no requirement to obtain an LEI from any investor in any of our funds (both UCITS or NURS).

An LEI is a Legal Entity Identifier. Under MiFID II, only clients who wish to trade in certain instruments have to have an LEI. This is because firms have an obligation to make transaction reports and will need LEIs to meet this requirement.

What's the position on rebates?

From 3 January 2018, MiFID firms may not accept commissions or rebates in relation to any advised or portfolio management business for retail clients.

For professional clients, the position remains that firms can accept rebates providing they are passed on to underlying clients and are not retained.

Trail commission is not affected but the FCA continues to review the payment of trail commission as part of its work on the Asset Management Market Study.

What will happen to documentation?

We are in the process of updating our terms of business to reflect certain MiFID II requirements and will be in touch with affected clients.

What's the position on research?

Under the inducements rules in MiFID II, we are prevented from accepting and retaining fees, commissions or non-monetary benefits paid or provided by any third party in relation to the provision of our services to clients.

Research can constitute a non-monetary benefit. Therefore we cannot receive investment research from a third party unless it falls within narrow exceptions (such as certain generic research).

To avoid breaching the inducements rules, payment for research must be paid for either out of our own funds or through a 'research payment account' pre-funded by a charge to clients.

We use third-party research to the extent that is necessary, as we are committed to ensuring our investment professionals have access to the external research market, which is critical in decision-making and delivering the long term investment excellence our clients have come to expect.

We can confirm LGIM has made the decision to pay for investment research from our profit and loss.

What about client disclosure requirements?

We recognise that you will need certain information from us to comply with your MiFID II obligations to provide pre- and post-sale information to your clients.

We will disseminate information on costs and charges to underlying investors through the EMT. In addition, we will be adding additional information to the factsheet.

We have enhanced our conflicts of interest policy and our best execution policy to reflect MiFID II requirements. Our policies are available to clients on request or through our website.

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