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## Navigating the MiFID II Maze

The European Commission started work on the MiFID II Directive back in 2011; in mid-2014, the Level 1 legislation was finalised.<sup>1</sup> The Commission finished implementing the legislation in 2016, and ESMA has been churning out Level 3 guidance and Q&A across a variety of topics ever since.

With a deadline for implementation of January 2018, MiFID II represents a herculean achievement on the part of policymakers and regulators, the likes of which we are unlikely to see in financial services rulemaking for quite some time. Thank goodness, many of you will say.

At its heart, MiFID II has a handful of key themes: market structure, conflicts of interest, transparency, conduct of business, reporting to regulators and consistency across the EU. The sheer length and complexity of the MiFID II legislation is astounding. In addition to its size and scope, MiFID II will bring fundamental changes to many current market practices.

Unsurprisingly, a cottage industry of service providers has sprung up to offer solutions around MiFID II – in particular, a plethora of technology providers claim they can help firms handle the new requirements. Some of these firms are well-established names that have identified MiFID II as an opportunity to extend the scope of their existing services to meet clients' needs, while many are niche providers offering a single solution to a particular regulatory challenge.

Navigating the different providers and identifying cost-effective technology and system solutions without introducing over-complex or over-engineered processes is challenging. MiFID II represents an opportunity for many firms to take a more strategic approach to how they manage

their data, how they report to regulators and how they communicate with their clients. A short-term, piecemeal approach to dealing with MiFID II is likely to result in firms spending more time and effort further down the line and could entail missing some of the opportunities that the legislation presents.

In addition, there are commercial benefits to be found in the challenge of MiFID II. An example of this is in relation to best execution obligations. A firm that views best execution as an issue for compliance and simply a series of rules to be adhered to may be missing out on a strategic opportunity. The front office can derive clear benefits from having the right execution-quality tools, which enable traders to use real data to weigh the

<sup>1</sup> <https://www.esma.europa.eu/policy-rules/mifid-ii-and-mifir>

relative importance of execution factors – price, certainty, timeliness, etc. – which can add real commercial value.

The cost of MiFID II to the industry is significant and certainly exceeds the sub-euro 1 billion amount set out in the European Commission's original cost/benefit analysis. The mantra of firms should be that if they are going to spend money on MiFID II, which they will have to, then it must be spent wisely.

