9 November 2017

Eurex Exchange's MiFID II/MiFIR & T7 release 6.0 readiness news

Dear Eurex participant,

We want to provide you with an update regarding transitional periods in Germany for third country firms engaged in dealing on own account.

BaFin published on their website an amendment to its administrative practice in accordance with § 2 paragraph 4 German Banking Act (§ 2 paragraph 5 under the amended German Banking Act).

This administrative practice is described in the "Notes regarding the licensing for conducting cross-border banking business and/or providing cross-border financial services" from 01 April 2005. In its amendment to these notes, BaFin clarifies that the certification from the competent authority/authorities of the home country of a third country firm is not required in order to determine completeness of an application for exemption in the meaning of § 64v paragraph 8 sentence 1 of the amended German Banking Act. The respective applications need to be submitted to BaFin until 2 July 2018 in order to be allowed to continue business after 3 January 2018.

The "Notes regarding the licensing for conducting cross-border banking business and/or providing cross-border financial services" from 01 April 2005 can be found here. The amendment is only available in German and can be found here.

Background
MiFID II extends the scope of trading activities requiring authorisation as investment firm. According to article 2.1 (d) of MiFID II, the authorization scope has broadened to firms dealing on own account in financial instruments, if they are, among others, members of or participants in a regulated market or an MTF or have direct electronic access to a trading venue in accordance with Art. 4.1 (41) MiFID II.

In Germany this scope extension is implemented in the amended German Banking Act § 32 Sec. 1a Sentence 2+3.

Third country firms dealing on own account on Eurex and who are NCMs or clients of NCMs having direct electronic access to Eurex, may set up a Branch in the EEA or chose the MiFIR equivalence path in order to be able to continue trading in the EEA after 03 January 2018.

If firms choosing the equivalence regime, member states may implement transitional periods for the time from 03 January 2018 (effective date of MiFID II) and an equivalence decision of the EU Commission.

In Germany such transitional period for third country firms dealing on own account is implemented in the amended German Banking Act § 64v Sec. 8. Prerequisite to participate in the transitional period is

the submission of a complete application of exemption to BaFin by 02 July 2018. Information required to determine completeness of an application are listed in BaFin's notes regarding the licensing for conducting cross-border banking business and/or providing cross-border financial services, section 2. c. More information can be found on the Eurex webpage.

New publications

- Transitional Period for 3rd Country Firms
- Final Release Notes
- Network Access Guide (includes IT address of the PS Gateways)
- Incident Handling Guide

Implementation timeline

- Monday, 28 August 2017: Availability of T7 release 6.0 via the T7 Cloud Simulation
- Monday, 18 September 2017: Availability of upload functionality for IDs (National ID, Client ID, etc.) in the Member Section
- Monday, 25 September 2017: Availability of T7 release 6.0 in the regular simulation environment
- Thursday, 28 September 2017: Availability of the Selective RFQ Service in the simulation
- Monday, 4 December 2017: Go-Live of T7 release 6.0
- Wednesday, 6 December 2017: Go-Live of the Selective RFQ Service

Recommendations

- Please participate in the T7 6.0 simulation environment as soon as possible.
- Align with your ISV regarding your required features and timelines.
- Setup responsibilities and processes for the provision of the required provision of reference data (who is in charge to upload IDs, who is in charge to monitor missing IDs that need to be uploaded).
- Request required IDs from your clients (LEIs and/or national IDs).
- If you have not yet registered a release contact or regulatory coordinator in the Member Section, we kindly ask you to do so.

All publications and readiness updates are published on the T7 release 6.0 as well as MiFID II / MiFIR initiatives pages.

If you have any further questions or comments please do not hesitate to contact your Key Account Manager or send an e-mail to customer.readiness@eurexchange.com.

Kind regards
Your Customer Readiness Team

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