

MiFID II Quick Reference Guide

Introduction

The purpose of this document is to explain trueEX LLC’s (“trueEX”) status under MiFID II and the potential impact of compliance requirements under MiFID II directly on trueEX and on those Participants that will be required to comply with MiFID II (“EU Participants”) with respect to their trading on trueEX. trueEX is in no way making an assessment as to which of its Participants are subject to MiFID requirements. The scope of MiFID II is broad and it is up to each firm individually to determine how its corporate structure and business activities are impacted by MiFID II, regardless of whether the firm and its traders are actually located in the European Union (“EU”) or the European Economic Area (“EEA” – comprising the EU plus Norway, Iceland and Liechtenstein).

What is MiFID II?

MiFID II is the revised Markets in Financial Instruments Directive, which along with the related Markets in Financial Instruments Regulation (“MiFIR”), regulates firms who provide services—or perform activities relating to ‘financial instruments’ (e.g. shares, bonds, units in collective investment schemes and derivatives), and the venues where those instruments are traded. In general, it applies to such financial services firms that are doing business anywhere in the EU or the EEA, whether they are based there or elsewhere.

What is trueEX’s status under MiFID II?

Under MiFID II, trueEX is considered a Third-Country Venue, which is a trading venue not located in the EU. Additionally, a Third-Country Venue that would be characterised as potentially conducting the investment activity of operating a Multilateral Trading Facility (“MTF”), as trueEX SEF is, would, for these purposes, be treated as a Third-Country Investment Firm and would be subject to the formal MiFID II and MiFIR framework applicable to Third-Country Investment Firms. trueEX is not currently registered as an MTF, an Organised Trading Facility (“OTF”) or as a Regulated Market (collectively, “EU Trading Venue”).

When does MiFID II become effective?

January 3, 2018.

What role does equivalence play?

On October 13, 2017, the CFTC and the European Commission made a joint announcement that they have agreed to a common approach to reach an equivalence decision covering CFTC authorized SEFs and DCMs. Final details are still forthcoming, but an equivalence determination will allow trueEX to operate its SEF Platform similar to an MTF and its DCM similar to a Regulated Market. In short, EU Participants will be allowed to meet the EU trading obligation by trading on trueEX.

As a Third-Country Venue, what requirements of MiFID II apply directly to trueEX? What requirements do not apply?

Please see the chart below. Detail on each requirement follows.

<u>Compliance Requirement</u>	<u>Potential Impact on trueEX</u>	<u>Potential Impact on EU Participants re trueEX</u>
<u>Trade Execution Requirement</u>	None †	Significant
<u>Straight-Through Processing</u>	Low	Low
<u>Maintenance of Records</u>	None †	Intermediate
<u>Transaction Reporting</u>	None †	None †††
<u>Market Access Issues</u>	None †	None ††
<u>Algorithmic Trading</u>	None †	None ††
<u>Pre/Post-Trade Transparency</u>	None †	None †††
<u>Clock Synchronisation</u>	None †	None ††
<u>Best Execution Reporting</u>	None †	None ††

† Requirement does not apply directly to Third-Country Venues

†† Requirement does not apply directly to EU Investment Firm activities on Third-Country Venues

††† Subject to inclusion of trueEX on list of Third-Country Venues published by ESMA

As indicated in the chart above, many of the MiFID II requirements do not apply directly to trueEX as a Third-Country Venue or to EU Participants for their trading on trueEX; however, to the extent an EU Participant is of the belief that a requirement is in scope for them and requires any such information to meet its own compliance requirement, trueEX already has processes, procedures and rules in place to help such participants meet their requirements and will implement other changes as requested.

Trade Execution Requirements

Where an EU mandatory trading obligation applies to a contract listed for trading on trueEX, an EU Participant will be able to transact on trueEX to meet the requirements of the trading obligation provided SEFs and DCMs are deemed equivalent under MiFID II. Articles 28 and 33 of MiFIR provide for two separate equivalence regimes that would, to the extent either applies to a US DCM or US SEF, permit trueEX's EU Participants to comply with such EU mandatory trade execution obligation by trading on trueEX's DCM or SEF, respectively.

On October 13, 2017, the CFTC and the European Commission made a joint announcement that they have agreed to a common approach to reach an equivalence decision covering CFTCC authorized SEFs and DCMs. Final details are still forthcoming; however, EU Participants should be allowed to meet the EU trading obligation by trading on trueEX.

Straight-Through Processing (STP)

Although this regime only applies by its terms inside the EU and EEA, it is possible that the implementing rules adopted by EU central counterparties ("CCPs") may apply to all trading venues, including Third-Country Venues. MiFIR's STP requirements are likely to apply to trueEX's SEF and DCM in respect of any trades that: (1) are cleared at LCH, an EU CCP; and (2) are either (x) subject to an EU mandatory clearing determination or (y) are, at the time of execution, intended to be cleared by the counterparties to the trade. Requirements for pre-trade screening and other submission timelines do not apply where the EU Trading Venue and the CCP have adopted rules ("STP Rules") that meet certain enumerated criteria. In such cases, the STP Rules themselves ensure that MiFIR's STP requirements are met.

The trueEX Platform meets the STP Rule requirements applicable to trading venues for both CCPs that clear trades executed on trueEX. Specifically, trueEX Rule 801(d) requires clearing for: (1) all DCM-executed trades; (2) all SEF-executed trades subject to a U.S. mandatory clearing determination; and (3) all SEF-executed trades that are, at the time of execution, intended by the counterparties to be cleared.

In addition, trueEX Rule 809(a) imposes an obligation on Persons engaging in such trades to have clearing arrangements in place with a Clearing Firm, and trueEX Rule 809(b) requires that a Clearing Firm "shall accept for clearing" all trades that fall within the applicable risk limits, meaning that the Clearing Firm either becomes the direct counterparty to the resulting cleared trade (under the European principal-to-principal model where clearing for an EU/EEA person) or as agent and guarantor of the executing party (under the FCM model where clearing for a U.S. person). It is expected that LCH rules will meet the relevant standards set out above for CCPs. Therefore, trueEX and LCH are likely to be seen to have adopted STP Rules for purposes of MiFIR's straight-through processing requirements.

Maintenance of Records

While the maintenance of records requirement does not have a direct impact on trueEX, our EU Participants need to be cognizant these requirements will pertain to their orders and executions. Among these requirements, MiFID II requires Trading Venues to maintain certain records, and to make such records available to national competent authorities, in relation to all orders in Financial Instruments advertised through their systems. As these rules do not apply by their terms to Third-Country Venues, there will be no specific impact on trueEX's SEF or DCM. trueEX's EU Participants will be subject

to record maintenance obligations in respect of all orders and transactions executed for their own account or for the account of clients, which is not expressly limited to trades executed on Trading Venues.

trueEX has similar recordkeeping and audit trail requirements as a SEF and DCM and is amenable to working with our EU Participants to provide certain records upon request with content, timing and format to be agreed between trueEX and the EU Participant. trueEX will provide the EU Participant with information to enable them to meet their MIFID II requirements.

Transaction Reporting

MiFIR imposes transaction reporting requirements in respect of derivatives that are admitted to trading on an EU Trading Venue as well as those that are concluded off-venue but which are "traded on a trading venue" ("TOTV"). In no case, however, does the reporting obligation fall to a Third-Country Venue, but rather to EU/EEA Investment Firms, EU/EEA Credit Institutions providing investment services or performing investment activities, and EU/EEA branches of Third-Country Investment Firms.

However, there is a question as to whether derivatives traded on trueEX will be required to be reported. ESMA has issued an opinion on transaction reporting, specifically for OTC derivatives and the concept of "TOTV"¹. In this opinion, ESMA made the point to delineate the OTC derivatives that are within the scope of the transparency and transaction reporting requirements from those OTC derivatives that are not considered TOTV and, hence, are outside the scope of the transparency and transaction reporting requirement. For the purposes of this opinion, transactions on a Third-Country Venue would be out of scope for transaction reporting, unless the OTC derivative shares identical reference data, which is unlikely. trueEX has been advised that transaction reporting does not apply to a Third-Country Venue, and as such, transaction reporting will not apply to EU/EEA investment firms in respect of their trading on trueEX. Opinions on this topic, especially what it meant by "identical reference data", continue to evolve, concurrently with the European Commission's and the CFTC's discussion on equivalence, as well as the determination as to which Interest Rate Swaps may become subject to a trading obligation. trueEX is monitoring those developments closely and will revert if there are any changes.

To the extent that an EU Participant on trueEX has an obligation to report transactions executed on trueEX, trueEX will provide the participant with any data in a specified format necessary to enable it to meet this requirement

Market Access

MiFID II market access obligations relating to issues such as Direct Electronic Access, High Frequency Algorithmic Trading and Market Making do not apply to Third-Country Venues and, therefore, trueEX is out of scope of these requirements; the requirements apply explicitly to EU Trading Venues. To the extent an EU Participant would like information or data from trueEX as if it were required to comply with market access obligations, trueEX already meets many of the requirements imposed by MiFID II as a SEF/DCM and is amenable to accommodating any such requests.

Algorithmic Trading

Articles 48 and 18(5) of MiFID II sets out a number of systems and controls that EU Trading Venues must have in place to ensure resiliency and adequate capacity, including specific requirements relating to testing of algorithms to ensure that any algorithmic trading by members (or their clients) do not create, or contribute to, any disorderly trading conditions. Although the requirements for algorithmic trading do not apply to Third-Country Venues, trueEX already meets many of the requirements imposed by MiFID II as a SEF/DCM and will work with EU Participants if they wish to perform similar testing on trueEX.

¹ ESMA 70-156-117 issued May 22, 2017

Pre- And Post-Trade Transparency

MiFIR imposes pre-trade transparency requirements in respect of derivatives that are traded on-exchange as well as those that are concluded OTC. However, these requirements for on-exchange derivatives do not apply to Third-Country Venues. MiFIR also imposes post-trade transparency requirements on EU Trading Venues to make public the price, time and volume of derivatives executed on, or subject to the rules of that EU Trading Venue “as close to real-time as technically possible”. There was concern that the requirements were not clear as to whether this obligation applied to transactions on Third-Country Venues. To address this concern, ESMA issued a recent opinion² that should ensure that none of trueEX’s EU Participants are subject to post-trade transparency requirements with respect to trading on trueEX as long as trueEX meets the requirements enumerated in the opinion. ESMA has not yet published the list of Third-Country Venues that meet the criteria; however, trueEX as both a SEF and DCM meet the criteria and expect to be included on this list.

Clock Synchronization

MiFID II requires EU Trading Venues, and their members or participants, to synchronise their business clocks to record the date and time of “reportable events”. The term “reportable events” is not expressly defined for purposes of clock synchronization. ESMA recently provided guidance regarding these types of events, which trueEX will continue to monitor going forward. With that said, these rules do not apply by their terms to Third-Country Venues, therefore, there is no specific impact on trueEX or its EU Participants who trade on the trueEX Platform. Regardless, the trueEX Platform already is synchronized with Coordinated Universal Time (UTC) and with the granularity required of EU Trading Venues.

Best Execution Reporting & Publication

Article 27 of MiFID II sets out the basic “best execution” rule, which is for Investment Firms to take “all sufficient steps” to obtain the best possible result when executing client orders, taking account price, speed, costs, likelihood of execution and settlement, size, nature or any other consideration relevant to order execution. MiFID II extends the current MiFID “best execution” framework to require “execution venues” and Investment Firms executing client orders on “execution venues” to report information annually on the quality of execution of client transactions. As trueEX is **not** an “execution venue” for these purposes, neither trueEX nor its EU Participants should be subject to these publication obligations in respect of trading activities on trueEX’s SEF or DCM. However, to the extent that an EU Participant requires information or data from trueEX as if it were required to comply with “best execution rules”, trueEX is amenable to accommodating any requests.

Disclaimer:

This MiFID II Quick Reference Guide is based on a summary prepared by trueEX's outside counsel in June 2017. It is provided for informational purposes and based on public sources only and does not constitute legal advice, by either trueEX or its outside counsel, or a full description of the applicable legal or regulatory requirements under MiFID II, MiFIR, the relevant EU-level implementing legislation, related EU-level guidance or, where referenced, national implementation measures. Accordingly, firms should make their own decision regarding the applicability of the topic areas addressed herein based on their own independent advice from their professional advisors. Although care has been taken to ensure that the contents of this MiFID II Quick Reference Guide are accurate as of October 30, 2017 trueEX specifically disclaims any legal responsibility for any errors or omissions and disclaims any liability for losses or damages incurred through the use of the information herein. trueEX undertakes no obligation to update the contents of this Quick Reference document after October 30, 2017.

² ESMA70-154-165 issued May 31, 2017.

INTEREST RATE SWAPS CONTRACTS SUBJECT TO THE EU TRADING OBLIGATION

(1) FIXED-TO-FLOATING IRS, DENOMINATED IN EUR

<u>Trade Start Type</u>	<u>Settlement Currency</u>	<u>Floating Reference Rate</u>	<u>Fixed Leg Payment</u>	<u>Fixed Rate Day Count</u>	<u>Floating Leg Reset</u>	<u>Floating Rate Day Count</u>	<u>Tenor +/- 5 Days</u>
Spot (T+2)	EUR	Euribor 3M	Annual Semi-Annual	30/360 ACT/360	Quarterly	ACT/360	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 15Y, 20Y, 30Y
Spot (T+2)	EUR	Euribor 6M	Annual Semi-Annual	30/360 ACT/360	Semi-Annual Quarterly	ACT/360	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 8Y, 9Y, 10Y, 12Y, 15Y, 20Y, 30Y

(2) FIXED-TO-FLOATING IRS, DENOMINATED IN USD

<u>Trade Start Type</u>	<u>Settlement Currency</u>	<u>Floating Reference Rate</u>	<u>Fixed Leg Payment</u>	<u>Fixed Rate Day Count</u>	<u>Floating Leg Reset</u>	<u>Floating Rate Day Count</u>	<u>Tenor +/- 5 Days</u>
Spot (T+2)	USD	LIBOR 3M	Annual Semi-Annual	30/360 ACT/360	Quarterly	ACT/360	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 12Y, 15Y, 20Y 30Y
IMM (next two IMM dates)	USD	LIBOR 3M	Annual Semi-Annual	30/360 ACT/360	Quarterly	ACT/360	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 12Y, 15Y, 20Y 30Y
Spot (T+2)	USD	LIBOR 6M	Annual Semi-Annual	30/360 ACT/360	Quarterly Semi-Annual	ACT/360	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 12Y, 15Y, 20Y 30Y
IMM (next two IMM dates)	USD	LIBOR 6M	Annual Semi-Annual	30/360 ACT/360	Quarterly Semi-Annual	ACT/360	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 12Y, 15Y, 20Y 30Y

(3) FIXED-TO-FLOATING IRS, DENOMINATED IN GBP

<u>Trade Start Type</u>	<u>Settlement Currency</u>	<u>Floating Reference Rate</u>	<u>Fixed Leg Payment</u>	<u>Fixed Rate Day Count</u>	<u>Floating Leg Reset</u>	<u>Floating Rate Day Count</u>	<u>Tenor +/- 5 Days</u>
Spot (T+0)	GBP	LIBOR 6M	Quarterly Semi-Annual	ACT/365F	Quarterly Semi-Annual	ACT/365F	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 15Y, 20Y, 30Y
Spot (T+0)	GBP	LIBOR 3M	Quarterly Semi-Annual	ACT/365F	Quarterly	ACT/365F	2Y, 3Y, 4Y, 5Y, 6Y, 7Y, 10Y, 15Y, 20Y, 30Y