Overview of MiFID II
Impacts on your business and operating model
## Overview of MiFID II

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An introduction to MiFID II
Since its implementation in 2007, the Markets in Financial Instruments Directive (MiFID) has been the cornerstone of the financial markets regulation in the European Economic Area (EEA).

As not all perceived benefits have been transferred to the end investor as intended by the legislators, the European Union (EU) decided to completely overhaul the entire regulatory package.

MiFID II is thus focusing on shortcomings of the original MiFID and responds to the lessons learned during the financial crisis.

Besides a revised directive, which requires transposition into national law, MiFID II will also include a regulation (MiFIR), which will have direct effect in the EU member states.\(^1\)

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1) Subsequent reference to MiFID II always includes the directive and the regulation unless otherwise mentioned.
MiFID II is expected to apply within EU member states on January 3, 2017.

The European Commission agreed on an extension by one year the application date for the MiFID II package. The new application date is January 3, 2018.

1) RTS = Regulatory Technical Standards; 2) ITS = Implementing Technical Standards; 2) publication expected by the end of Q1 2016.
Main topics covered by MiFID II
MiFID II in a nutshell

A smart clustering into five thematic areas

<table>
<thead>
<tr>
<th>MiFID II thematic areas...</th>
<th>... and key topics covered</th>
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</thead>
<tbody>
<tr>
<td>Market access</td>
<td>• Market access</td>
</tr>
<tr>
<td>Corporate governance</td>
<td>• Corporate governance</td>
</tr>
<tr>
<td>Safeguarding of client assets</td>
<td>• Safeguarding of client assets</td>
</tr>
<tr>
<td>Phone recording</td>
<td>• Phone recording</td>
</tr>
<tr>
<td>(non-) independent advice</td>
<td>• (non-) independent advice</td>
</tr>
<tr>
<td>Inducement transparency/ reporting</td>
<td>• Inducement transparency/ reporting</td>
</tr>
<tr>
<td>RM remuneration</td>
<td>• RM remuneration</td>
</tr>
<tr>
<td>Bundles of services/products</td>
<td>• Bundles of services/products</td>
</tr>
<tr>
<td>Product approval &amp; monitoring process</td>
<td>• Product approval &amp; monitoring process</td>
</tr>
<tr>
<td>Target market</td>
<td>• Target market</td>
</tr>
<tr>
<td>Product documentation</td>
<td>• Product documentation</td>
</tr>
<tr>
<td>Distribution governance</td>
<td>• Distribution governance</td>
</tr>
<tr>
<td>Client classification &amp; profiling</td>
<td>• Client classification &amp; profiling</td>
</tr>
<tr>
<td>Client information</td>
<td>• Client information</td>
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<tr>
<td>Suitability &amp; appropriateness</td>
<td>• Suitability &amp; appropriateness</td>
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<tr>
<td>Client reporting</td>
<td>• Client reporting</td>
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<tr>
<td>Advisory minutes</td>
<td>• Advisory minutes</td>
</tr>
<tr>
<td>Market structures</td>
<td>• Market structures</td>
</tr>
<tr>
<td>Best execution</td>
<td>• Best execution</td>
</tr>
<tr>
<td>Algo- and high frequency trading</td>
<td>• Algo- and high frequency trading</td>
</tr>
<tr>
<td>Commodity derivatives</td>
<td>• Commodity derivatives</td>
</tr>
<tr>
<td>Transaction reporting &amp; recording</td>
<td>• Transaction reporting &amp; recording</td>
</tr>
</tbody>
</table>

Clustering based on previous project experience and may vary depending on your organisation’s needs.
MiFID II will have significant impacts on the business and operating model

<table>
<thead>
<tr>
<th>Key strategic challenges</th>
<th>Impact Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advisory offering</td>
<td>• Does your advisory offering ring-fence all the services included?</td>
</tr>
<tr>
<td></td>
<td>• Is your advisory offering capable to compensate the potential loss of inducements?</td>
</tr>
<tr>
<td>Suitability framework</td>
<td>• Is your suitability engine capable to perform a periodic suitability monitoring?</td>
</tr>
<tr>
<td></td>
<td>• Are the target market obligations covered within your distribution suitability?</td>
</tr>
<tr>
<td>Product distribution</td>
<td>• What is your future product distribution strategy?</td>
</tr>
<tr>
<td></td>
<td>• Is your product distribution suitability embedded in a front-to-back IT solution?</td>
</tr>
<tr>
<td>Cost calc. &amp; reporting</td>
<td>• Is the required data on costs and charges available in your systems?</td>
</tr>
<tr>
<td></td>
<td>• Are your systems capable to generate detailed cost reports on portfolio level at client request?</td>
</tr>
<tr>
<td>Transaction reporting</td>
<td>• Do you have the relevant (client) data readily available?</td>
</tr>
<tr>
<td></td>
<td>• Have you considered your different options to report transactions?</td>
</tr>
<tr>
<td>Execution model</td>
<td>• Have you considered the impacts of MiFID II on your trading counterparties and your access to liquidity?</td>
</tr>
<tr>
<td></td>
<td>• Is your best execution policy covering all MiFID financial instruments and differentiating across client categories?</td>
</tr>
</tbody>
</table>

**Regulatory assessment (bottom up)** ➔ **Strategic assessment (top down)**

**Impacted areas**
- Business strategy
- Operating model
- IT landscape

MiFID II should not be perceived as a pure compliance exercise. Significant impacts on the whole value chain demand a fundamental assessment and realignment of the business and operating model to remain competitive.

1) Only required if periodic suitability monitoring is offered
Main requirements and potential impacts (1/5)
Market access & corporate governance

Key topics
- Market access
- Corporate governance
- Safeguarding of client assets
- Phone recording

Requirements

3rd country market access:
- Potential branch requirement for 3rd country firms when actively servicing retail clients
- Actively servicing professional clients requires registration with ESMA

Corporate governance:
- New corporate governance obligations and respective duties of the management body

Safeguarding of clients asset:
- Safeguard the ownership rights of client assets
- Specific title transfer collateral arrangements

Phone recording:
- Capturing of order transmissions from client to RM by phone (incl. mobile phones)
- Recording of all transactions related to electronic communication

Potential impacts

- Analysis of marketing activities with regards to reversed solicitation services
- Potential ESMA registration required

- Private liability of the management body
- Review of policy framework
- Limitation of directorships for board members

- Restrictions on security lending with retail clients
- Extended recording capabilities required (IT & mobile phones)

Limitation of directorships will have significant impacts on banking groups. Additionally, the management body is facing private liability in specific circumstances.
## Main requirements and potential impacts (2/5)

### Offering & inducements

<table>
<thead>
<tr>
<th>Key topics</th>
<th>Requirements</th>
<th>Potential impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independently vs. non-independent advice:</td>
<td>• Investment firms are required to position themselves as independent or non-independent advisors(^1)</td>
<td>• Development of new advisory offering (potential «price for advice»)</td>
</tr>
<tr>
<td>Inducements:</td>
<td>• Ban on retention of inducements for portfolio management and independent advice</td>
<td>• Inducement calculation/reporting engine required</td>
</tr>
<tr>
<td>RM remuneration:</td>
<td>• Remuneration framework may not only be based on quantitative goals (sales targets) but also need to account on qualitative criteria</td>
<td>• Review of remuneration framework and policies</td>
</tr>
<tr>
<td>Bundles of services/products:</td>
<td>• Information about single service/product price if offered in a bundle</td>
<td>• Impact on cross-selling capabilities and pricing framework</td>
</tr>
</tbody>
</table>

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1) Dual offering possible but «Chinese walls» required

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Strategic decision regarding independent/non-independent advice and the corresponding inducement strategy will have significant impact on the future service offering and P&L statement
**Main requirements and potential impacts (3/5)**

**Product governance**

<table>
<thead>
<tr>
<th>Key topics</th>
<th>Requirements</th>
<th>Potential impacts</th>
</tr>
</thead>
</table>
| Product approval and monitoring process: | • For each product the relevant investor audience (target market) needs to be defined and relevant risks to that audience needs to be assessed | • Implementation/ adaption of product approval process capabilities  
• Definition and automatization of monitoring capabilities |
| Target market: | • Allocation of the different products to a specific target market based on the client needs, characteristics and objectives | • Distribution process compliance |
| Distribution governance: | • Distribution suitability (i.e. in line with target market) and distribution strategy needs to be ensured | • Data availability of in-house products  
• Handling of products with specific time to market characteristics (e.g. call options)  
• Impact on professional investment product disclosure  
• Overlaps with PRIIPs[^1] |

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[^1]: Regulation on Key Information Documents for packaged retail and insurance-based investment products (PRIIPs)

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Manufacturers and distributors of investment products are heavily impacted by the newly introduced MiFID II product governance obligations.
Main requirements and potential impacts (4/5)

Advisory process

<table>
<thead>
<tr>
<th>Key topics</th>
<th>Requirements</th>
<th>Potential impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client information:</td>
<td>Enhanced client information requirements (e.g. type of advice, conflicts of interests disclosure, marketing material)</td>
<td>Enhanced MiFID II information package, Adaption of marketing material, Review of conflicts of interest policy</td>
</tr>
<tr>
<td>Suitability &amp; appropriateness:</td>
<td>Larger definition of complex products, Optionality of periodic suitability monitoring</td>
<td>Extended capabilities needed of periodic suitability monitoring, Impacts on suitability engine</td>
</tr>
<tr>
<td>Client reporting:</td>
<td>Additional client reporting obligations, Detailed cost &amp; charges breakdown on client request</td>
<td>Amendment of client reports, Data availability and calculation of cost &amp; charges</td>
</tr>
<tr>
<td>Advisory minutes:</td>
<td>Suitability statement regarding advice provided to retail clients mandatory</td>
<td>MiFID II compliant advisory minutes, Easy-to-use front-end solution (integration into advisory suite)</td>
</tr>
</tbody>
</table>

The enhanced client information requirements (ex-ante/ ex-post) have significant impacts on the data architecture, data management and cost calculation & reporting tools.
Main requirements and potential impacts (5/5)

Trading & execution

<table>
<thead>
<tr>
<th>Key topics</th>
<th>Requirements</th>
<th>Potential impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market structures</td>
<td>• Regulation of all trading venues (introduction of OTF)</td>
<td>• Implementation of rules to comply with trading obligations</td>
</tr>
<tr>
<td></td>
<td>• Regulation of direct electronic market access</td>
<td>• Registration as SI or dealing below thresholds</td>
</tr>
<tr>
<td></td>
<td>• Extension of SI regime to non-equities</td>
<td>• Change in terms of service for trading venues</td>
</tr>
<tr>
<td></td>
<td>• Increased pre- and post trade publication</td>
<td>• Compliance with direct electronic access provisions</td>
</tr>
<tr>
<td></td>
<td>• Trading obligation in shares and certain derivatives</td>
<td></td>
</tr>
<tr>
<td>Best execution</td>
<td>• Annual publication of top five execution venues and quality of execution obtained</td>
<td>• Publication of top five trading venues</td>
</tr>
<tr>
<td></td>
<td>• Enhanced client information on execution policy</td>
<td>• Overhaul of best execution policy and client information</td>
</tr>
<tr>
<td>Commodity derivatives</td>
<td>• Introduction of position limits and position management controls</td>
<td>• Set-up capability for position reporting</td>
</tr>
<tr>
<td></td>
<td>• Reporting of commodity derivatives positions and position holders</td>
<td>• Control of position limits for own positions</td>
</tr>
<tr>
<td>Transaction reporting &amp; recording</td>
<td>• Maintain records of all relevant data</td>
<td>• Increased number of reportable transactions and changes in data fields</td>
</tr>
<tr>
<td></td>
<td>• Extension of data and instruments to be reported</td>
<td>• Definition of reporting set-up</td>
</tr>
</tbody>
</table>

Impacts vary between different asset classes and (partially) depend on the strategic direction in reporting and (best) execution

1) OTF = Organised Trading Facility; 2) SI = Systematic Internaliser; 3) Only applicable if specific techniques are in use. Therefore, most financial institutions are not affected.
Considerations for project setup
# Regulatory overlaps

The project setup should consider the various touchpoints to other regulations.

## Cross-regulatory approach:
Due to significant overlaps of MiFID II and other Swiss and EU regulations, project scoping should take into account the possibility of a combined approach:

- Prioritization of regulations based on strategic objectives, regulatory maturity, implementation deadlines and thematic overlaps
- Definition of combined business requirements to cover cross-regulatory scope
- Definition of combined solutions (i.e. processes and systems) per impact area

## Potential benefits:
- One-time change of processes and systems
- Efficient resource allocation
- Cost efficient implementation

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<table>
<thead>
<tr>
<th>Topic area</th>
<th>MiFID II</th>
<th>Overlaps with other regulations (not exhaustive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market acc. &amp; corp. gov.</td>
<td>FinSA¹</td>
<td>FinSA¹, FinIA², FMIA³, PRIIPs⁴, EMIR⁵, CRR/D⁶, SFTR⁷</td>
</tr>
<tr>
<td>Offering &amp; inducements</td>
<td></td>
<td></td>
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<tr>
<td>Product governance</td>
<td></td>
<td></td>
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<tr>
<td>Advisory process</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trading &amp; execution</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

= thematic overlaps

CH | EU

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1) FinSA = Financial Services Act; 2) FinIA = Financial Institutions Act; 3) FMIA = Financial Markets Infrastructure Act; 4) PRIIPs = Packaged Retail Investment and Insurance-Based Products; 5) EMIR = European Markets Infrastructure Regulation; 6) CRR/D = Capital Requirements Regulation/Directive; 7) SFTR = Securities Financing Transaction Regulation
Project governance

Clear roles and responsibilities are key to reach the project’s goals

Business involvement

MiFID II topics span across the entire value chain and require coordinated involvement of several business units.

Project organisation

Steering committee

Project management

PMO

Market acc. & corp. gov.
Offering & inducements
Product governance
Advisory process
Trading & execution
Internat. Locations

Project roles & responsibilities

Project management
- Drives the overall project pace and schedule
- Project planning and reporting
- Stakeholder management
- Monitors status of all work streams
- Approves deliverables/ changes to scope
- Controls budgets

Project management office (PMO)
- Responsible for project coordination and support as well as issue, risk and change management

Stream leads
- Responsible for the execution of project tasks
- Involve subject matter experts
- Prepare, review and challenge project deliverables
- Keep line management up to date regarding progress of project

A well defined and clearly communicated project governance is key to deliver the expected project results in an effective and efficient manner.
**Project planning**

Milestones, work packages and dependencies need to be identified and communicated

- Launch project including scoping, governance, approach and strategic alignment
- Establishment of overall project plan and detailed work breakdown structure on workstream level
- Definition of project milestones and deliverables
- Alignment of engagement with other ongoing projects
- Identification and on-boarding of key stakeholder

**Your goals**

- Ensure knowledge transfer to key stakeholder and management
- Identify key challenges for the business model and enable strategic decision making by management
- Identify relevant requirements and their impact on the operating model and system landscape
- Identify potential high-level options and solutions

**Our approach**

- Strategic options: Evaluation of business model impacts and options to enable early strategic decision making by management
- Impact heat-map: Identification of key challenges across the entire operating model and system landscape
- Action plan: Ensuring clear direction for further project progress

**Our deliverables - your benefits**

- Early strategic decision making will have significant impact on the further project progress by setting the guidelines for solution development
How we may support you
An approach tailored to your needs

We would be pleased to offer you our services the way your project can profit the most

Our philosophy

At Weisshorn Consulting, it is our sincere belief that every client is unique in his needs and capabilities available to direct towards the business challenge at hand.

Setting up a project and determining the level of external support required may depend on several factors, e.g. complexity of the topic and the own organisation, availability of the right capabilities and project resources or desired resp. required project timeline.

Therefore, we never try to deliver a «one-size fits all» approach, but intend to listen to our clients needs and combine them with our own experience in regulatory transformation projects to come up with a solution tailored to their circumstances.

Our service offering thus spans across several levels of project involvement to bring our clients the right amount of support.

We would be pleased to discuss with you how we may support you to achieve your goals.

Our service offering

Your needs may be depending on several factors, e.g.:

- Goal of the project
- Complexity of the topic
- Capabilities required
- Budget available
- Timeframe
- ...

Your project setup will be depending on the identified needs:

Project organisation

Project timeline

Our support tailored to your project requirements may include:

Project execution

Our experienced project managers support you driving your project forward

SME support

Our subject matter experts bring the necessary expertise through on-site project support

Knowledge transfer

Our subject matter experts enable your project team through in-depth knowledge transfer

1) SME = Subject Matter Expert
About us
About us
Who we are and how you may get in touch with us

Who we are

Weisshorn Consulting AG is a Zurich based consulting boutique focusing on regulatory and strategic advisory in wealth & asset management.

We support private and retail banks, asset managers, fund management companies and other financial institutions located in Switzerland and Liechtenstein with tailor-made solutions by combining our industry expertise with state of the art methodologies. Our individualized service offering helps our clients to stay informed about upcoming regulations, evaluate the impact on their business- and operating model and implement tailored solutions ensuring compliant operations across their organization.

As a trusted sparring partner, we help our clients to navigate through the increasingly complex legal and regulatory environment. We provide goal- oriented advice on their strategic re-alignment and support them in the design and execution of their business transformation. Our ultimate goal is to generate sustainable added value for our clients’ organizations and their customers alike.

Besides our on-site consulting services we conduct technical research and provide our clients with regular updates and background analysis on regulatory developments through our newsletter and thought leadership material or deep-dive knowledge transfer workshops on selected topics.

How to get in touch with us

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Our MiFID II experts

Our consulting team combines several years of experience in regulatory transformation

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Education
• CAS Financial Market Law, Faculty of Law University Zürich
• Swiss Certified Public Accountant
• Bachelor of Arts in Business economics from the University of Applied Sciences Basel

Professional experience
• More than nine years of experience in Wealth & Asset Management
• Advising international top-tier private banking, asset management and investment banking firms in combining business strategy and regulatory changes, transformation, risk and controls, as well as capturing efficiencies across the value chain
• Providing advisory services to firms seeking to reduce operational and regulatory compliance risk, enhance internal controls, and implement global regulatory driven business frameworks

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Education
• Doctor in Law (Dr. iur.), “magna cum laude” from the University of Lucerne
• GRiM Winterschool, University of Stockholm
• Master of Law from the University of Lucerne
• Bachelor of Law from the University of Lucerne

Professional experience
• More than five years of experience as a lawyer in the financial sector
• Advising Swiss and international banks, collective investment schemes and asset managers on matters of banking and financial market law, with special focus on Swiss and European financial law
• Areas of expertise: setting up compliance organisations; Swiss-U.S. Tax Dispute, FATCA, anti-money laundering and Know your Customer (KYC); contract law; corporate governance and internal control systems; Swiss & European consumer protection law (e.g. FIDLEG/ FINIG & MiFID II/ MiFIR, PRIIPs)

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Education
• Master of Arts from the University of Zurich
• Major: Political Science (focus on International Relations)
• 1st Minor: Economics
• 2nd Minor: International Law

Professional experience
• More than four years of experience in financial services advisory with a big four company
• Advising financial services firms in the transformation of business and operating models to comply with regulatory requirements in areas such as consumer protection, capital markets regulation, tax transparency and US tax dispute
• Areas of expertise: Project management, regulatory change management, end-to-end business transformation, process design and re-engineering, requirements engineering and IT implementation

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Education
• Master of Arts in Business Administration from the University of Zurich (Focus on Corporate Finance and Entrepreneurship)
• Bachelor of Arts in Business Administration from the University of Zurich (Focus on Strategic Management and Accounting)

Professional experience
• More than seven years of experience in the financial service industry and a big four company
• Advising international private banking and asset management firms in regulatory business transformation, optimization of the business & operating model and the definition of tailor-made advisory solutions
• Areas of expertise: Project management, regulatory business transformation, process design and IT implementation
• Regulatory focus: Consumer protection (MiFID II / FIDLEG / FINIG / PRIIPs), know your customer (KYC) and US tax dispute

Overview of MiFID II - Impacts on your business and operating model

January 2016
## Selected credentials

Where we supported financial institutions in regulatory transformation projects

<table>
<thead>
<tr>
<th>MiFID II gap assessment</th>
<th>MiFID II impact assessment</th>
<th>FMIA impact assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>for an international private bank domiciled in Liechtenstein</td>
<td>for an international asset manager domiciled in Switzerland</td>
<td>for the asset management of an international universal bank domiciled in Switzerland</td>
</tr>
</tbody>
</table>

### Our engagement:

- **MiFID II gap assessment**
  - Our team supported a MiFID II project of an international private bank domiciled in Liechtenstein
  - The project goal was to identify impacts on the bank’s business and operating model, to determine the MiFID II applicability for all international locations and to analyse overlaps of different regulations to derive a common denominator for implementation
  - We acted as Subject Matter Expert (SME) for different workstreams, performed additional legal/ regulatory analyses and supported the overall project management

- **MiFID II impact assessment**
  - Our team performed a MiFID II/ FinSA (draft) impact assessment for a leading international asset manager domiciled in Switzerland
  - The project goal was to identify MiFID II/ FinSA (draft) relevant entities and perform an impact and gap assessment
  - We acted as Subject Matter Expert (SME) and identified the main impacts of the regulatory requirements on the different legal entities

- **FMIA impact assessment**
  - We performed a FMIA impact assessment and gap analysis combined with EMIR and Dodd-Frank regulations to identify changes required to be compliant with the set of regulations and technical standards within the group
  - The focus of the project covered the following topics: OTC clearing, trade reporting, client on-boarding and risk mitigation for non-cleared derivatives

### Our deliverables:

- **MiFID II gap assessment**
  - Gap assessment: Identification of gaps and development of (potential) solutions
  - Applicability assessment: Analysis of the contractual framework across different international locations and identification of MiFID II connex
  - Regulatory equivalence assessment: Analysis of different regulations and definition of a common regulatory denominator across locations

- **MiFID II impact assessment**
  - Know-how transfer: Deep-dive workshops on MiFID II topics with all international locations in scope
  - Location scoping: Determination of MiFID II applicability for all international entities against the backdrop of regulatory overlaps with other regulations relevant for asset managers (AIFMD, UCITS, CISA)
  - Impact assessment: Assessment of impacts of MiFID II and (draft) FinSA requirements across the operating model and system landscape in all locations in scope

- **FMIA impact assessment**
  - Overview of applicable requirements derived from the business analysis across locations
  - Impact analysis on operating models, systems and governance with indications of optional solutions
  - Analysis of FMIA versus EMIR trade reporting requirements and field comparison resp. client information
  - Assessment of business model impacts due to new collateral requirements
  - Solution design for trade reporting and interfaces with central clearing facilities
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