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Does MiFID II in part fail to meet market requirements completely?

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MiFID II is in force since the beginning of the year. Has there been fundamental change? When canvassing the opinions of both domestic and foreign market participants, one receives a plethora of widely diverging responses.

MiFID II is not only complex, but in reality, its introduction has in many respects resulted in disorientation and uncertainty.

Why? The scope for interpreting the new regulations is quite wide, due to a lack of legal and practical substantiation and given the fact that they often seem out of touch with reality. Naturally this is an ideal area of activity for business consultants and lawyers, whose interpretations differ just as widely. This can also be observed on the international level, with priorities and implementation speeds diverging across various European countries.

The point of departure was supposed to be to facilitate greater transparency. This specific goal was not met, as surveys of major international players suggest that disorientation has become a dominant issue and uncertainty has become greater than it was previously. Moreover, the administrative burden is staggering.

A positive aspect in terms of financial analysis is that research is priced separately through its own payment account. Thus quality research receives a concrete monetary value for the first time! This applies primarily to equity research, where regulatory authorities evidently considered the risk of insider trading to be the greatest. Direct research pricing packages are thus segregated from trading turnover and commissions. This process has been referred to as "unbundling" for many years. Economic analysis, interest rate, currency and credit research are less strongly affected by this.

So far, so good; the situation is somewhat different with customer conferences and providing customers with access to listed companies. It is less clear in this case whether participation is included directly in the research pricing package, is to be paid for as an extra service, or whether participation for customers who do not have a package is possible at all - even if they want to pay only for this service. Experience with international institutional investors has shown that some use such strict interpretations of the rules, that even if they pay the fees for participating in conferences, they do not wish to take part at all in order to safely rule out any possibility of misconduct.

The current situation will probably lead to predatory competition and a general decrease in information, with smaller, specialized research providers facing the risk of being pushed out of the business. Access to professional information is completely denied to private investors.

This is a substantial step backward as well. In addition, smaller asset managers with less AUM and the associated smaller income will find high-quality research increasingly difficult to afford. Small asset managers will depend on the extent to which research providers will be able to flexibly offer tailor-made solutions that are at the same time affordable. Quality will have its price and all in all, the diversity of information will probably decrease. Was that really intended?

All these developments, which can only be briefly and roughly outlined here, were probably not part of the original game plan. Thus the "presumption of innocence" generally applies with respect to the regulation as well. On the other hand, a deliberate exclusion from access to all kinds of efficient and professionally prepared information should be considered malicious and a step backward in capital market communication.

I wish you and your families - despite all future regulatory obstacles - a Merry Christmas and all the best for the New Year!

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