

[Directive on markets in financial instruments \(MiFID II\): Commission suspends referral of Spain to the Court](#)

[On 19 July 2018](#), the European Commission decided to refer Spain to the Court of Justice of the EU for failure to adopt the national measures necessary to fully transpose the revised markets in financial instruments directive ([MiFID II](#)), as well as its supplementing directive ([Commission Delegated Directive \(EU\) 2017/593](#)). At the time, Spain had only notified partial transposition of the above-mentioned directives into national law.

On 1 October 2018, Spain notified a Royal Decree Law transposing most of the missing provisions. The transposition of a few provisions still needs to be completed by a Royal decree, which is planned for adoption by end of November.

Therefore, the Commission considers that the execution of the referral of Spain should be put on hold.

If the measures planned for adoption by end of November are not adopted as planned, the stay of the proceeding may be reconsidered.

Background

In September 2017, the European Commission formally requested several Member States to transpose MiFID II (Directive 2014/65/EU), its amending directive ([Directive \(EU\) 2016/1034](#)) as well as delegated directive ([Directive \(EU\) 2017/593](#)). Then, in [January 2018](#), reasoned opinions were issued against those Member States that had not notified full transposition at the time.

These rules are crucial building blocks for the proper functioning of securities markets and are essential for the continued operation of the European single market. If Member States do not transpose the rules, investors are not able to benefit from the enhanced investor protection provided under MiFID II.

National competent authorities of non-transposing Member States are further not able to deliver legally sound authorisations for activities that had not been previously regulated, or that were regulated differently under MiFID I. This includes the operation of trading venues, such as regulated markets, multilateral trading facilities (MTF) and organised trading facilities (OTF) and the registration of MiFID I investment firms as a systematic internaliser. Not fully transposing these EU rules disrupts the single market as they became applicable on 3 January 2018 and complement the provisions of the Market for Financial Instruments Regulation ([MiFIR](#)). Cross-border “passporting” of various investment services and activities might not operate

as smoothly as between Member States that have fully transposed the MiFID II rulebook.

For More Information

- On the key decisions in the November 2018 infringements package, see full [MEMO/18/6247](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).