

HOW CAN INVESTMENT FUNDS COPE WITH THE MIFID II DATA DELUGE

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MiFID II¹ introduces a wide range of enhanced reporting obligations for investment firms (“MiFID Firms”). In this article we consider the implications of this for investment funds, primarily from a governance perspective.

The MiFID II Data Deluge

From 3 January 2018 MiFID Firms are obliged to provide their clients with a wide range of data. This is due to enhanced reporting obligations under MiFID II. Clients, for this purpose, include investment funds to which a MiFID Firm acts as investment manager or adviser.

As a brief overview, on either a monthly or quarterly basis in most cases², MiFID Firms must provide information to their clients in relation to matters including:

- The valuation of the portfolio;
- Fees and expenses charged;
- A breakdown of the portfolio's composition;
- Information on any corporate actions;
- Performance reporting;
- Information on trades and details of transactions; and
- Cost details for any paid-for research

Notification must be made (by the end of the relevant business day) of any 10% drop in the value of the portfolio.

Key Considerations

So, due to regulatory requirements applying to MiFID Firms, investment funds or their management companies are now receiving a huge amount of data.

This presents a number of issues for the investment funds, primarily from a governance perspective.

What to do with all the data?

The first problem this presents is data review. Who from the investment fund or the management company will review all of the information being sent monthly or quarterly? Has there been an assessment done as to whether any of this data is critical or of higher importance? Or has it been determined that none of the information is likely to present any issues that are not already captured in the existing reporting framework?

If tolerance levels are set and cases arise where data breaches those tolerance levels, the next thing to consider is what action is to be taken and who is responsible for taking this action.

This all points towards formulating a policy/set of procedures for data analysis.

Another question is whether any of this information should be shared with the fund's investors. If, for example, a fund is being provided with detailed MiFID II costs and charges data or data on paid-for research, should the fund inform investors? This data may not actually be informative from an investor perspective. MiFID II costs and charges data, for example, is not reflective of overall fund expenses. Also, investors already receive fund level costs and expenses information in the periodic reports and, in the context of UCITS, ongoing charges disclosure in the Key Investor Information Document.

Disparity of information between investment funds managed by MiFID Firms and non-MiFID firms

If some investment funds are receiving MiFID II data and some investment funds are not, this divergence or “information gap” could have implications for investors. To the extent the data is beneficial, investment funds may seek to get corresponding levels of data from non-MiFID firms to bring them into line.

¹Directive 2014/65/EU.

²There is an alternative reporting model where information is kept up-to-date online and the portfolio manager ensures it is accessed by the client on at least a quarterly basis. This may not be practical where the client is a fund/management company.



Reconciling the new data with the existing reporting framework

As well as considering the information MiFID Firms typically provide to investment funds as part of their existing regular reporting, it is also necessary to consider how new MIFID II data will fit with the enhanced delegate supervision requirements that are coming into effect under the Central Bank of Ireland's revised fund governance framework (commonly referred to as "CP86").

CP86 does not require the granular level detail of portfolio information provided under MiFID II, but it does mandate (i) detailed information to be provided prior to the launch of a new fund/sub-fund; (ii) regular reporting on specific investment management and distribution matters and (iii) comprehensive annual presentations from investment managers.

Also, key performance indicators should be set and there is a new requirement for regular reports to cover operational risk (including any instances of reputational risk and regulatory risk for the delegate).

Enhanced CP86 reporting and MiFID II data disclosure are not likely to overlap to any great degree. But this further highlights the need, from the MiFID Firm's side, to have an enhanced reporting framework. From the fund's/management company's side, this also highlights a need for an enhanced capability to review, assess and, where relevant take necessary action, arising out of the information reported.

Final Thoughts

In the context of the questions posed in this article, fund boards should engage with MiFID firms they have appointed and consider the implications of the enhanced MIFID II data reporting.