

# MiFID II

**Appointment of tied agents**

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**Hogan  
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### Key Points

- Some minor changes are made to the rules relating to tied agents, including clarification that tied agents will be able to hold money belonging to clients.
- Member states will be required to implement a tied agent regime in their own state (whereas previously it was optional).

### Timescales for implementation

The MiFID II Directive and the Markets in Financial Instruments Regulation ("**MiFIR**") came into force on 3 July 2014, and most of their provisions will come into effect in member states from 3 January 2018. Member states have until July 2017 to transpose the MiFID II Directive into national law.

### Tied agents in MiFID II

Article 23 of the MiFID I Directive contains detailed provisions regarding the appointment of "tied agents". A tied agent is a person who, under the full and unconditional responsibility of only one investment firm on whose behalf it acts, promotes investment and/or ancillary services to clients or provides the services of either receiving and transmitting instructions or orders, placing financial instruments or providing investment advice on financial instruments.

The rules regarding the appointment of tied agents will be recast in Article 29 of the MiFID II Directive, and will be subject to a few minor changes. The key changes are:

- Where the wording of MiFID I said that tied agents were entitled to "handle" clients' money, the MiFID II Directive changes the wording to "hold", thus making clear that tied agents will be able to hold a client's money in the same way that the investment firm itself would be able to.
- The tied agent regime will become mandatory across all EEA states. Under MiFID I, member states had the option about whether to implement such a regime for investment firms authorised in their own state (although they could not prevent a tied agent in their state from being appointed by an investment firm from another state, in accordance with the passporting regime).<sup>1</sup>

<sup>1</sup> This will not have an impact on the United Kingdom, as the UK implemented the tied agent regime in full.

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