

MASTERING MiFID II: ASIA-PACIFIC IMPLEMENTATION & COMPLIANCE

AN ASSESSMENT OF THE CHALLENGES FACING NON-EU BUYSIDE FIRMS AND INVESTMENT BANKS

The updated Markets in Financial Instruments Directive (MiFID II) broadens the scope of non-EU financial institutions that will become subject to some or all of the EU regulatory mandates. Asia-Pacific (APAC) sellside and buy-side institutions conducting business within the EU or with EU clients and counterparties will now be held to the standards and mandates established by the regulation.

APAC banks and buy-side firms that:

- trade within the EU;
- service EU-based clients; and/or
- sub-contract on behalf of EU-based MiFID II-regulated entities

must re-examine their operations and functions in order to appropriately structure their interactions and commercial relationships to determine how best to approach compliance.

No non-EU regulatory regime has yet been recognised as equivalent to MiFID II but the regulation contains **third-country rights** – provisions of existing EU law that guarantee certain rights and protections to third countries and third-country firms, subject to conditions.

APAC entities registered with ESMA can use the **cross-border model** to serve eligible counterparties and per se professional clients.

The **branch model** provides services to all types of clients in the domicile including retail and elective clients.

APAC buy-sides and sell-sides must now determine to what degree they are obligated to comply with MiFID II and how they can pursue compliance. This report provides a summary of when APAC financial institutions would come under MiFID II's scope and the mandates to which they would be subject. While full regional regulatory compliance remains a ways off, the possibility of more inclusive regional responses to exogenous regulation is driving discussion and progress on regulatory convergence within the APAC region.

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