

MiFID II

The Markets in Financial Instruments Directive (MiFID) was the first Community Directive (Directive No. 2004/39 / EC) that introduced and sought to harmonize a significant set of rules on the exercise of financial intermediation activities in the European Union, with a view to improve the functioning of financial markets and ensure greater levels of protection and transparency for investors in the provision of investment activities and services.

The revision of this Directive was published in the Official Journal of the European Union on 12 June 2014 (MiFID II - no. 2014/65 / EU), together with its respective Regulation (RMIF - no. 600/2014). The entry into force of these diplomas was scheduled for January 2018. The aim is to refine the changes introduced by MiFID II, reinforcing investor protection, transparency and quality of service and mitigating situations of conflict of interest.

To this end, it sought to ensure the professional qualification of the consultants, to increase the independence in the scope of the provision of the service, to improve the suitability assessment process and to reinforce the information duties to the clients (both in the pre- and post-contractual scope).

LEGAL FRAMEWORK

These changes are part of a legislative package that introduces profound changes to the regulatory regime, not only with regard to the activities of financial intermediation and trading of financial instruments, but also in terms of the marketing of banking products.

This package comprises, in addition to MiFID II, RMIF, two delegated regulations from the European Commission, a delegated directive from the European Commission and a relevant set of Technical Regulatory and Enforcement Standards (RTS / ITS).

In the process of transposition into national law, it is important to highlight the changes in the main diplomas that govern financial institutions:

I. CVM

- Extending the objective (including new financial instruments) and subjective (as a result of restrictions on persons exempt from authorization) and the supervisory powers in relation to commodity derivatives, with powers being given to the supervisory authorities to prohibit and restrict the sale of financial instruments.
- Reinforced the conduct duties of financial intermediaries, and a new subtype of consultancy, the independent investment consultancy, was created.
- The internal organization of financial intermediaries has been changed, namely: the duties regarding governance and approval of the production or distribution of financial instruments (product governance); the provision of specific duties for people who develop algorithmic and HFT trading or grant direct electronic access to customers and the reinforcement of rules regarding the protection of customer assets and the use of guarantees.

- The regulation of trading structures for financial instruments was changed, creating a new organized form of trading (OTF) for non-equity instruments, creating quantitative thresholds in the definition of systematic internalization that determine communication duties and the fulfillment of increased transparency duties and the strengthening of internal control mechanisms.

II. RGICSF

- Changes in prudential matters, namely with regard to tied agents and the requirement to identify indirect shareholders and the last beneficiary or beneficial owners under the qualified participation authorization process.
- Changes in behavioral matters, with the possibility of providing consultancy regarding deposits structured by investment companies (articles 4-A and 199-I / 3 RGICSF-A), which is configured as a distinct activity investment advice and marketing in the strict sense.
- Approval of an autonomous diploma, which regulates the special regime for the marketing and advice of structured deposits, deepening in relation to these instruments the duties of conduct in line with MiFID II and the general rules introduced in the RGICSF.
- In addition to the changes resulting from MiFID II, it is important to bear in mind that the RMIF (European regulation of direct application) introduces significant changes in terms of transparency of pre and post-negotiation information and reporting of transactions, proceeding to an almost complete harmonization these matters. In addition, trading obligations are provided for in organized markets for standardized derivatives and for shares admitted or traded on a regulated market or MTF.

CUSTOMER CLASSIFICATION

Customers of financial intermediation services can be classified into two broad types: non-professional investors and professional investors, the latter being the holders of experience and knowledge to make their own investment decisions, being able to assess the risks in cause. The law provides for a lesser degree of protection for professional investors compared to non-professional investors.

Among professional investors, there are:

- Professional investors “by nature”, that is, those whose classification derives from the law itself.
- Professional investors “on demand”, that is, non-professional investors who have requested treatment as professional investors.

In addition to this general classification, which is applicable regardless of the investment service in question, within the scope of the provision of reception and transmission services or execution of orders on behalf of others, financial intermediaries are not subject to certain rules of conduct when dealing with eligible counterparties. Eligible counterparties are professional

investors by nature, who agree to this categorization, with the exception of regional governments and large legal entities.

The non-professional client may request HAWKCLAW to be treated as a professional investor. The satisfaction of the request submitted depends on HAWKCLAW's prior assessment of the client's knowledge and experience, which ensures that the client has the capacity to make its own investment decisions and that it understands the risks they involve, considering the nature of the services, financial instruments and contracted operations. HAWKCLAW, even though it considers that the client in question has the capacity to make investment decisions and that it understands the risks that they involve, cannot accept the change of classification, if at least two of the following criteria are not met:

- The client has carried out transactions with a significant volume in the relevant market, with an average frequency of 10 transactions per quarter, during the last four quarters.
- Have a portfolio of financial instruments, including bank deposits, in excess of 500,000 euros.
- The client provides or has performed functions in the financial sector, for at least one year, in a position that requires knowledge of the services or operations in question.

ASSESSMENT OF FITNESS

HAWKCLAW performs the assessment of the suitability of certain investments in financial instruments or investment services in the best interest of the client. The provision of complete and accurate information by customers is essential for HAWKCLAW to assess the adequacy of the financial products and services offered to its investor profile.

In investment advisory and portfolio management services, HAWKCLAW collects information and assesses the adequacy of the financial instruments underlying its investor profile.

These services can be provided by HAWKCLAW in the face of a positive assessment of the adequacy of the service or financial instrument.

In providing the service of receiving, transmitting and executing orders, HAWKCLAW is not obliged to determine whether the transaction is appropriate to the client's investor profile.

ORDER RECEPTION AND TRANSMISSION POLICY

HAWKCLAW is an investment advisory company that, within the scope of this activity, can also provide its CLIENTS with services for receiving and transmitting orders on their behalf.

The present Order Transmission Policy is communicated to each CLIENT, at the time of signing the respective Service Delivery Agreement.

In this context, HAWKCLAW guarantees and ensures that:

- It does not proceed, at any time, with the execution of transaction orders, guaranteeing only their reception and subsequent transmission to the financial intermediary, chosen by the client himself, who will proceed with their effective execution;
- Confirm that the financial intermediary proceeds to execute the order sent by the CLIENT in the exact terms requested and, thus, in the most appropriate conditions;
- The transaction orders that are transmitted to each financial intermediary are based on the advice that was provided to each CLIENT, which will always be appropriate to the client's profile; and
- HAWKCLAW does not have access to and cannot operate accounts belonging to CLIENTS, in which the CLIENTS 'assets / funds are deposited and held in custody;
- To that extent, accounts belonging to other CLIENTS are not used, as each CLIENT is autonomous, independent and holds an account with the financial intermediary he has indicated;
- HAWKCLAW does not have the power to transfer assets / funds or to execute the transaction orders received from its CLIENTS 'accounts, but only to transmit them to the financial intermediary responsible for that execution.

The orders sent by each CLIENT are received and transmitted in the best conditions, using HAWKCLAW all the necessary efforts so that they are understood and executed, within the limits of the mere transmission of orders, by the financial intermediary in the exact terms indicated by the CLIENT. In this sense:

- Transaction orders received are recorded in the HAWKCLAW register, under the terms and conditions of the respective transaction order;
- Orders are not transmitted to financial intermediaries without prior verification (i) of the CLIENT's identity and, when applicable, of the originator's identity and sufficiency of powers, (ii) the account data of which he is the owner or agent with the financial intermediary designated, (iii) the existence of sufficient funds and / or assets in the CLIENT's account for the requested transaction and (iv) its strict compliance with the advice given to the CLIENT; and
- Orders are not transmitted to financial intermediaries without specific instructions from the CLIENT regarding (i) the identification of the transaction, indicating the financial instrument to be traded (investing or divesting), (ii) the respective volume, (iii) the price and (iv) the time limit.
- We emphasize that the advice underlying the transaction order sent by the CLIENT will always be provided by HAWKCLAW so that the CLIENT can obtain the best possible result.
- Likewise, all measures taken in connection with the transmission for the execution of transaction orders by the financial intermediary aim at the CLIENT to obtain the best possible result, seeking, for this purpose:

☐ Confirm that the financial intermediary chosen by the CLIENT has the means to properly receive the transaction order and, in this sense, confirm the effective receipt, by the same, of

the transaction order sent; in this context, the transaction order will always be sent through the channel agreed with the financial intermediary (and available from HAWKCLAW) that allows it to provide the best service to the CLIENT;

☑ Confirm that the financial intermediary chosen by the CLIENT has executed the transaction order, in the exact terms indicated;

☑ Send information to the CLIENT, with confirmation of the status of the transaction order, previously verified with the financial intermediary (i.e., executed, not executed or partially executed), detailed with the elements of the transaction carried out; and

☑ Send information to the CLIENT, whenever HAWKCLAW or the financial intermediary encounters some difficulty in the transmission and / or execution of a transaction order, respectively, in the shortest time, with detailed information about the situation, being the CLIENT updated at every moment as to the continuation of that same order of transaction and its completion (or impossibility of completion).

This Order Transmission Policy will be reviewed by HAWKCLAW annually, in order to assess its effectiveness with financial intermediaries.

Any changes made to this Order Transmission Policy will be immediately communicated to each CLIENT, in writing and with the updated Order Transmission Policy. The CLIENT must be aware of it and expressly accept the new terms and conditions of its execution.

CONFLICTS OF INTEREST POLICY

HAWKCLAW has revised its conflict of interest management policy in order to create procedures that ensure the prevention of conflicts and, in case of occurrence, their management and mitigation.

This Conflicts of Interest Policy aims to define the framework and guidelines for action for the characterization, identification and treatment of situations potentially generating conflicts of interest, thus guaranteeing the independence of people who develop, within the scope of HAWKCLAW, consultancy activities for investment and reception and transmission of orders on behalf of the CLIENTS.

HAWKCLAW will always act to avoid or minimize the risk of a conflict of interest with its CLIENTS.

The integrity, fairness, impartiality and primacy of the CLIENTS' interests are principles that guide the exercise of HAWKCLAW's activity and which are complied with by the members of its governing bodies and by all its employees.

Conflict of interest situations are those related to (i) conflicts between the interests of HAWKCLAW, or those related to it (members of corporate bodies and employees) and the duties that HAWKCLAW has towards the CLIENT and (ii) conflicts between two or more CLIENTS and the duties that HAWKCLAW has towards each of them, namely (exemplary and non-limiting list):

- Situations in which HAWKCLAW (or the members of corporate bodies and employees) will obtain a financial gain or avoid a financial loss to the detriment of the CLIENT;

- Situations in which HAWKCLAW (or the members of corporate bodies and employees) has a certain interest in the results resulting from investment advisory services and receipt and transmission of orders on behalf of the CLIENT that is in conflict with the CLIENT's interest in these same results ;
- Situations in which HAWKCLAW (or the members of corporate bodies and employees) receives a financial or other incentive to privilege the interests of one CLIENT over the interests of another CLIENT; and
- Situations in which HAWKCLAW (or the members of governing bodies and employees) receives or will receive a benefit related to a service provided to the CLIENT other than the commission or remuneration for the service provided.

In order to avoid conflicts of interest, HAWKCLAW will act in accordance with the following principles:

- Diligent to ensure the CLIENT, in any situation, a transparent and equitable treatment;
- Always give priority to the CLIENT's interests, to the detriment of the interests of HAWKCLAW, the interests of the members of its corporate bodies and employees;
- Provide CLIENTS, whenever requested, with all necessary clarifications and information on the type of services provided and respective remuneration;
- Guarantee the independence and autonomy of the members of the governing bodies and employees of HAWKCLAW;
- Maintain an updated register of the members of the governing bodies and employees who access privileged and confidential information;
- Limit access and use of privileged and confidential information from CLIENTS;
- Prohibit and control the performance, by the members of the governing bodies and employees, of personal operations based on privileged or confidential information obtained, within the scope of the exercise of their functions at HAWKCLAW;
- If and when necessary, ask a member of the governing bodies and / or an employee to refrain from providing a particular investment advisory service or receiving and transmitting orders to a particular CLIENT; and
- Require from the members of the governing bodies and employees (when providing consultancy services for investment and reception and transmission of orders) to communicate and periodically record the advice provided to HAWKCLAW CLIENTS and the personal operations carried out, including indication any authorization or prohibition relating to said personal operations.

In the event of a conflict of interest situation, HAWKCLAW will endeavor to identify the cause of the conflict of interest and, as well, reduce as much as possible any damage caused to the CLIENT.

The management of conflict of interest situations (possible and effective) will be carried out by HAWKCLAW based on the following elements:

- To have at the disposal of the CLIENTS a service for receiving complaints, which will be answered and resolved in the shortest possible time;
- Maintain, and regularly update, a record of situations of conflict of interest with a relevant risk of affecting the interests of one or more CLIENTS, as well as the service provided that originated that same situation;
- Communicate to the CLIENT, in the shortest possible time, and with the necessary detail, situations of conflict of interest; and
- Make yourself available to, in the event of an actual conflict of interest situation, agree on a solution together and together with the CLIENT, based on the client's interests.

This Conflict of Interest Policy may be amended by HAWKCLAW, for the purpose of better prevention and management of conflict of interest situations. Any changes will be communicated to all CLIENTS, in writing and with the updated Conflict of Interest Policy.

DUTIES OF TRANSPARENCY AND REPORTING

As a consequence of RMIF's entry into force, from 1 January 2018, legal persons will have to hold an LEI (LEI) number to carry out any type of transaction in the regulated market and over-the-counter market (OTC) associated with the instruments financial (shares, bonds, equity securities, investment fund units, commercial paper, treasury bills, CFD's, futures and options on financial instruments, interest rate forward contracts and swaps)