

# ING Commercial Banking information on MiFID

## [Bulgaria]

**MiFID – short for Markets in Financial Instruments Directive – is a European Directive, to be implemented in the European Economic Area including all 27 Member States of the European Union as well as Norway, Iceland and Liechtenstein. MiFID’s primary objectives are protection of investors, fostering further competition in the financial services industry and increased market transparency. MiFID concerns almost all financial instruments and investment services.**

### **Client Classification**

MiFID introduces a new client classification regime and distinguishes between three types of clients: “Retail Clients”, “Professional Clients” and “Eligible Counterparties”. The reasoning behind the categorisation of clients is the acknowledgement that different types of clients should be afforded a different level of investor protection and be provided with appropriate information about the investment firm’s products and investment services.

### **Overview of categories**

<b>Category</b>	<b>Description</b>	<b>Level of Protection</b>
<b>Eligible Counterparties</b>	Professional Clients who are active in the financial sector and who are deemed to have the experience to take investment decisions, on the basis of their corporate profile.	This group has the lowest level of protection under MiFID. This category only qualifies as an ECP in respect of certain services. The ECP category can be considered to be a sub-category of Professional Clients.
<b>Professional Clients</b>	Includes companies meeting at least two out of the three following criteria: <ul style="list-style-type: none"><li>• a balance sheet total of 20,000,000 EUR;</li><li>• or a net turnover of 40,000,000 EUR</li><li>• or own capital of 2,000,000 EUR</li></ul>	This group of clients has to provide less information to its financial institution than is the case for Retail Clients and is less protected than a Retail Client.
<b>Retail Clients</b>	Retail Clients are clients that do not belong to one of the other categories.	This group of clients has the highest level of protection.

The details in this document are provided for information only and clients should not rely on them. Clients are recommended to seek their own professional advice if they require further information on this area.

MiFID imposes more conduct of business requirements on business executed with sophisticated, professional investors than currently applicable. In addition, MiFID allows a client to elect to opt up or down to a different client category, which, accordingly, will provide such a client with a different level of investor protection.

### **Suitability and Appropriateness Requirements**

MiFID also introduces a harmonised set of rules for Suitability and Appropriateness testing, depending on the service offered:

- In case of investment advice, i.e. provision of personal recommendations to a client in respect of one or more investments in financial instruments, or portfolio management, Suitability testing is required. Suitability testing entails an assessment of the client's knowledge and experience in the relevant investment field as well as the client's financial situation and investment objectives.
- In case the client asks his/her financial institution to carry out an order pertaining to a complex financial instrument or this is done for any financial instrument at the initiative of the financial institution, the latter must assess whether the product or service is appropriate for this client.
- If the client requests, at his/her own initiative, to carry out an order in a non-complex financial instrument, no Suitability or Appropriateness testing has to be performed.

Extensive Suitability and Appropriateness testing applies to Retail Clients. When dealing with Professional Clients the knowledge, experience and financial situation requirements may generally be assumed to be fulfilled by the investment firm.

### **Best Execution and Order Handling**

Best execution is a key component of investor protection under MiFID. When providing investment services to their clients, investment firms are subject to a general obligation to act honestly, fairly and professionally in accordance with the best interests of their clients.

Best execution elaborates on this obligation by focusing on the way client orders must be executed by imposing as a rule that an investment firm must "take all reasonable steps to obtain the best possible result for their clients taking into account price, costs, speed of execution, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order".

The client order handling obligations require prompt, fair and expeditious execution of client orders. This entails accurate record keeping, sequential and prompt execution of comparable client orders and notification to Retail Clients of any material difficulty in executing orders.

### **Client Assets and Money**

The MiFID concept of safeguarding of client assets requires a clear distinction between client assets and the bank's assets. Most of these requirements have already been incorporated in existing legislation.

In addition, MiFID defines requirements for depositing client assets into accounts of a third party. For example, when foreign shares are held at a foreign custodian, investment firms will now be required to review these third party custodians on expertise, market reputation and the risks involved for the clients. An investment firm, furthermore, has to inform its clients when there are risks involved in holding assets at a specific third party.

### **Organisational Requirements**

MiFID also specifies strict requirements governing the internal organisation and business organisation of financial services providers:

- Specific rules apply in the field of compliance, risk management and internal audit, personal transactions, outsourcing and updating of data;
- Special procedures must be followed for dealing with conflicts of interest and complaints;
- All transactions in listed financial instruments must be reported to the competent supervisory authority.