

Group Briefing

February 2017

MiFID II

With less than 11 months to go until MiFID II comes into force on 3 January 2018, the implementation projects of in-scope firms should be well underway. Following its [June 2016 public consultation](#), the Department of Finance is responsible for drafting the transposing legislation, which is due to be published before the transposition deadline of 3 July 2017.

WHAT SHOULD FIRMS BE DOING NOW?

If they have not done so already, firms should be assessing the impact of MiFID II on their business model, processes (including IT processes), policies and client documentation. Firms that have done this work already should be moving into the implementation phase of their project.

The Central Bank has recently put industry on notice of its expectations. In a [speech](#) by the Central Bank's Director of Asset Management Supervision, Michael Hodson, on 7 February 2017, the following points were emphasised:

- » MiFID II implementation should be a key priority for all in-scope firms, in particular because new firms will be in-scope for authorisation under MiFID II, and because new firms and financial instruments will also be in-scope for the data reporting

obligations under MiFIR;

- » the Central Bank's expectation is that firms' implementation projects are well advanced, with changes to systems, policies and procedures in the final stages of development.

Michael Hodson signalled that the MiFID II implementation will be a standing agenda item for all engagements between the Central Bank and in-scope firms as 3 January 2018 approaches. He also noted that among the themed inspections planned by the Central Bank for 2017 will be a review of firms' readiness for MiFID II, and their compliance with ESMA's guidelines on the MiFID suitability requirements.

WHAT QUESTIONS DOES THE CENTRAL BANK WANT FIRMS TO ASK THEMSELVES?

Michael Hodson indicated that the Central Bank expects in-scope firms to be in a position to answer certain key questions in relation to the new regime, including:

- » Is the firm ready for the new obligations on product producers and distributors and does it know its target markets, client types and how it will assess compatibility?
- » Will the firm submit transaction

reports directly to the Central Bank, or will it use an approved reporting mechanism and what volume of reporting does it expect?

- » Does the firm have an IT project in place to deal with changes to reporting requirements?
- » Does any trading take place under a pre-trade transparency waiver and is the firm aware of the restrictions that MiFIR will place on waivers?
- » Will the firm operate an organised trading facility and, if so, has it told the Central Bank?
- » Is the firm caught by the new definition of "systematic internaliser"?
- » Has the firm considered the increased conduct of business requirements under MiFID II relating to advice, inducements, giving information to clients, product governance, product distribution, best execution, suitability and appropriateness, client categorisation and conflicts of interest?

These are all questions that can only be answered following a review of MiFID II and an assessment of its broad business impact on a firm. The extent to which most of the questions above are relevant to a firm will depend entirely on its business model.

HOW IS THE CENTRAL BANK ITSELF PREPARING?

The Central Bank's original implementation project for MiFID II has been broadened to include further projects that specifically focus on transaction reporting and on pre and post-trade transparency rules. In addition to staff training, and updates to its policies and procedures, a significant IT project is underway to deal with the changes to transaction reporting. The Central Bank will also be assessing the impact of the transposing legislation that the Department of Finance is drafting on its own rulebooks and guidance documents.

THE YEAR AHEAD

As the Central Bank has stressed the importance of firms fully understanding the new MiFID II regime and making significant progress on their implementation projects, we will be issuing a series of briefings throughout early 2017 focusing on key aspects of the new regime.

If you require any assistance with your MiFID II implementation project or advice on the impact of MiFID II on your business, please do not hesitate to contact Rob Cain, Dara Harrington or Aiden Small.

KEY CONTACTS

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