

Minutes

Meeting: MiFID II Implementation – Trade Association Roundtable

Date of Meeting: 06 January 2016

Venue: 25 The North Colonnade, Canary Wharf, London E14 5HS

Present:

Stephen Hanks - FCA	Nick Bayley - FCA
Catherine Crouch - FCA	Gavin Stewart - FCA
Federico Cellurale – FCA	Paul Atkinson - FCA
ABI	AFB
AFME	AIMA
APCC	APFA
BBA	EFET
Energy UK	FESE
FIA Europe	FIX
GAFTA	IA
ICI Global	ICMA
ISDA	ILAG
MFA	NFU
Oil & Gas UK	RBA
TISA	UK Platforms
WMA	WMBA

1 MiFID II effective date

- 1.1 The FCA said it expected that there will be greater clarity on a possible delay to the date of application for the whole of MiFID II in the course of this month. Public minutes of a discussion in December at the College of Commissioners indicated that the College accepts the case for a delay and asked to see a draft proposal this month.
- 1.2 At this stage it is unclear whether any legislative proposal from the Commission will include substantive changes to the Level 1 text, as well as changes to dates. Therefore it is not known whether ESMA's suggestion of a change to the application of pre-trade transparency to package transactions will be picked up.
- 1.3 The FCA noted that there is still no clarity on whether the Commission will propose a delay to the transposition deadline, which is currently 3rd July 2016, as well as the date of application. The FCA said that it would seek to provide clarity on the MiFID rules to those impacted as soon as possible and will provide them with an adequate time to complete their implementation work.
- 1.4 In response to a question, the FCA stated that although there had been significant public discussion of MiFID II's date of application, there had not been the same discussion of other dates in the legislation and it was therefore not clear if these dates will also change. These dates include matters such as the consolidated tape for non-equities, and transitional provisions for access.
- 1.5 The FCA asked whether, in light of public discussions about delay, firms are easing back on their MiFID II preparations. Several associations noted that there is still proactive engagement from large firms, but that some smaller firms may be falling back. Those who have begun MiFID II preparation work, typically the larger firms, are pushing on as they realise the scale and extent of the work required for readiness. Some of the associations reported that they are conducting working groups and surveying their members to assess readiness.
- 1.6 It was noted by some associations that firms are keen for clarity in transposition and implementation dates for operational and system-build reasons, often to be able to finalise their own internal development dates, and to request the relevant funding.
- 1.7 The challenge of the lack of quality data for the application of various provisions in the legislation including pre and post-trade transparency was noted by one association. Even if there was to be a delay to the date of application, that would not solve these data problems.
- 1.8 The FCA noted the importance of keeping the momentum going, despite the potential delay and said it was considering how it could best communicate that to market participants.
- 1.9 Regarding the effectiveness of communication, some attendants were concerned that not all the firms impacted by MiFID II are actually members of trade associations. It was suggested that some firms may erroneously believe the impact of MiFID II is purely systems and controls rather than wider implications, and that others simply do not grasp the amount of work which needs to be done.

2 Update on MiFID II implementing measures

- 2.1 The FCA noted that everyone was still waiting for the adoption of the delegated acts and the technical standards. It said it expected progress on this in the next month or so.

3 Initial discussion of CP 15/43

- 3.1 The FCA summarised this CP as 'largely legal carpentry' with limited discretion for domestic interpretation. It noted the inclusion in the CP of a draft 'MiFID Guide', something on which it would particularly welcome feedback from the perspective of whether this was something which it would be helpful to broaden out to cover more than just the implementation of the markets aspects of the legislation.
- 3.2 In response to a question on transaction reporting, the FCA confirmed that the intention is that its own transaction reporting guidance (TRUP) will be replaced by EU's transaction reporting guidelines, which were published for consultation by ESMA on the 23 December 2015. Our transaction reporting team will be holding meetings on this separately with associations. Some associations said they welcomed the FCA's proposal not to extend MiFID II transaction reporting to non-MiFID firms
- 3.3 The FCA reiterated that it would have to wait for clarity on the EU legislation before confirming the timing of publication of future consultation papers but, as set out in CP15/43, said it expected to publish a further CP in the first half of 2016.
- 3.4 The FCA said that its policy experts involved in the drafting of the CP would be present at the next Trade Association MiFID II roundtable for a more substantive discussion on the CP.

4 ESMA Level 3 work

- 4.1 The FCA said work is continuing in ESMA on the Investor Protection and Intermediaries Standing Committee, Secondary Markets Standing Committee and Commodity Derivatives Task Force on level 3 guidance. This is unlikely to be published until later in 2016 before the implementing measures have been approved.
- 4.2 The Investor Protection and Intermediary Standing Committee (IPISC) has recently issued three sets of guidelines on: cross selling guidelines, complex debt instruments and structured deposits, and training and competency. Changes had been made in response to comments made during the consultation on all three sets of guidelines and the FCA invited feedback on the final guidelines. In response to a question, FCA said that it did not expect the training and competency guidelines to change current UK requirements significantly.

5 AOB

- 5.1 The next roundtable is on 22 February 2016.