



LATEST NEWS – Mifid - Update on FSA timetable:

Introduction

The Markets and Financial Instruments Directive ('Mifid') is the biggest regulatory challenge the UK financial services industry has faced since the Financial Services and Markets Act ('FSMA') 2000. In general, it replaces the current Investment Services Directive.

Mifid's implementation date is 1 November 2007 and the FSA has to transpose rules into the FSA rulebook by 31 January 2007. The FSA recently issued an update to the implementation plan previously issued in May 2006. The following information summarises the key dates and actions that will take place between now and November 2007.

Implementation Timetable

The FSA have split this into two distinct sections. The first covers the actions that must take place before 31 January 2007, the date by which the FSA are required to transpose the provisions of the Directive into UK regulations. The second covers the period from the rules being transposed to the implementation deadline of 1 November 2007 when compliance with all of the new rules will be mandatory. The FSA is also taking the opportunity to review other areas of the rulebook, not specifically within Mifid scope, to make associated rules changes. This is either due to the desire to simply certain aspects of the rulebook and/or adapt rules following feedback from the industry as a whole.

Where we are now: November 2006

The FSA has already issued a range of consultation papers, a number of which the consultation has already taken place and policy statements are awaited. These include:

- Issued May 2006, DP06/3 – Implementing Mifid's Best Execution requirements. Consultation ended in August and any proposals will be documented in a further Consultation paper to be issued on Conduct of Business (see below).
- Issued May 2006, CP06/9 - Organisational Systems and Controls. Consultation ended in August and the policy statement will be issued in November 2006.
- Issued July 2006, CP06/14 – Implementing Mifid for firms and markets. Consultation ends October, and the rules made will be included in a major policy statement due at end January 2007 regarding all essential Mifid rules.
- Issued August 2006, CP06/15 – Reforming the Approved Persons Regime (containing both Mifid and non-Mifid issues). Consultation ends in November and a Policy Statement will be issued in Q1 2007.
- Issued August 2006 – an informal paper on client categorisation requirements. The outcome of this will be included in the main Consultation paper on Conduct of Business rules due by end October. In turn, final rules on this will be included in the policy statement due at end January 2007 regarding all essential Mifid rules.



Current Consultation Papers

There are two key consultation papers which have just been issued. One is a major consultation paper on Conduct of Business rules and the other is on financial promotions and other communications. Both papers were issued on 31 October, however all Mifid consultation must be completed by end November. The outcome of the consultation on these two areas will be included in the main Mifid Policy Statement to be issued by end January 2007.

NB. The new rules on Conduct of Business will in due course form a NEWCOB rulebook for November 2007. The FSA have confirmed that anyone covered by the current COB rulebook will be required to comply with NEWCOB, regardless of whether they are a Mifid firm or not. Therefore firms that consider themselves outside of the scope of Mifid, still need to ensure that proposed rules to COB are reviewed and any impacts planned. There will be further consultation in Q3 on non-Mifid scope COB changes and the policy statement issued in Q4, shortly in advance of implementation.

Towards implementation

Following the rules being transposed by end January 2007 by the issue of a Mifid Policy Statement, a number of additional consultation papers and policy statements will be issued in advance of November 2007. These will detail associated changes to the rules that the FSA wish to make which have not arisen specifically from the Mifid directive, but have arisen either because of connected issues or generally for rule reforms. This will include:

- any non-Mifid driven changes to systems and controls (eg. expansion of the common platform) which will be implemented at the same time as Mifid. Consultation is due Q3 2007.
- Any associated Prudential Supervision rule changes required as a result of Mifid Consultation is due Q1 2007 as part of normal quarterly consultation.
- Transactions Reporting User Pack – to be issued Q3.

Summary

Although Mifid Implementation is just under 12 months away, the next 3 months are key in respect of the future rules. A number of consultation papers and policy statements still require to be considered. Specifically the one on Mifid COB's rules will only have a very short consultation period before the final Mifid Policy Statement in January 2007. Given that this is a fundamental rulebook for all firms conducting regulated activities, it is clear that there is not going to be a major opportunity to provide feedback to ensure Mifid driven new rules are appropriate to UK businesses.

Additionally whilst firms may have hoped that following the issue of the Mifid Policy Statement in January, there would be a reasonable opportunity to implement the new rules by November, it is clear that the full impact of all regulatory changes due in November will not be clear until very much nearer this deadline and until all the non-Mifid associated changes have also been made.



Key dates to watch:

- October 2006 – Consultation on Mifid driven Conduct of Business rules including Financial Promotions.
- November 2006 – Policy Statement on Systems and Controls.
- January 2007 – Mifid Policy Statement covering all final rules for the implementation of Mifid by November.
- Q1 2007 – Approved Persons Policy Statement
- Q2 2007 – Financial Promotions (wider review) Policy Statement
- Q2 and Q3 2007 – Associated non-Mifid COB's rules Consultation.
- Q4 – COB's Policy Statements.

All of which must take place before 1 November 2007.

Next steps

All authorised firms need to be monitoring Mifid Consultation and Policy Statements, even those who have to date considered themselves outwith the scope of Mifid. It is clear that the FSA will be applying new COB's rules across the board, not just for Mifid impacted firms. In addition, there will be a number of changes scheduled to take place by November next year which the FSA have chosen to integrate with Mifid changes. It is clear that these changes will impact on all firms.

By now, all firms should ensure that they have a Mifid Action Plan in place. They should ensure that senior management are aware of the impact and level of regulatory changes due in 2007, and not just for Mifid firms.

Further gap analysis should be carried out following the issue of the COB's Consultation paper and in due course, the final Mifid Policy Statement. Firms need to anticipate the time required to make many changes including updating procedures, disclosure documents, internal guidance notes etc. However their plans have to be reactive and flexible enough that so that as further non-Mifid changes still be consulted on or announced, these additional changes can be integrated smoothly into overall implementation plans.

Gem Compliance can assist you to:

- brief senior management
- carry out a gap analysis on existing procedures
- review your implementation plan, including actions and milestones.
- provide guidance on the impact of the consultation papers and policy statements over the next 12 months.

If you wish to discuss further how Gem Compliance can assist you comply with Mifid and the raft of FSA changes due over the next 12 months and beyond, please contact us.