

*FCA, Markets in Financial
Instruments Directive II
Implementation -
Consultation Paper IV*

(CP16/43)

December 2016

Key Points

- The FCA published its fourth and final MiFID II consultation paper on 16 December 2016.
- The consultation paper contains a round-up of the remaining topics relevant to the UK's implementation of MiFID II.

On 16 December 2016, the FCA published a consultation paper (CP16/43), containing its fourth, and final, set of implementation proposals for MiFID II.

The consultation paper deals with a series of broadly technical Handbook changes that were not covered in the FCA's previous MiFID II consultations.

Specialist regimes

Chapter 18 of the Conduct of Business Sourcebook ("**COBS**") contains a number of tailored conduct regimes (covering MiFID and non-MiFID business) for specialist types of designated investment business.

The FCA proposes changes to ensure that all relevant cross-references in the Handbook are identified and updated where necessary and ensure appropriate decisions are made in relation to non-MiFID investment business that has some MiFID derived conduct rules applied to it.

Tied agents

The FCA proposes reflecting the technical changes in MiFID II to the tied agents regime in its rules dealing with appointed representatives.

Market data

The FCA is proposing some guidance on the scope of the approved reporting mechanism ("**ARM**") regime, the circumstances in which trading venues can make transaction reports using ARMs and that data reporting service providers ("**DRSPs**") should be required to undertake an annual assurance review of their compliance with their obligations under the DRSP regime, verified by a

member of the management body of the DRSP. The FCA is also proposing guidance on certain aspects of the use of ARMs.

Small and medium-sized enterprise ("**SME**") growth markets

The FCA is proposing rules to apply the MiFID II SME growth markets regime, including guidance on how to register as an SME growth market.

Miscellaneous changes to the FCA Handbook

The FCA proposes changes to various Handbook modules. These include changes to its Perimeter Guidance manual, clarification of the territorial scope of rules on remuneration and training and competency, amendments to the Banking Conduct of Business sourcebook to reflect the FCA's proposals in its September 2016 consultation paper (CP16/29) in relation to structured deposits.

Fees

The FCA proposes opening the authorisation gateway in January to assist firms. As such, it proposes a transitional rule for fees to deal with the period between when it starts accepting applications for authorisations related to the changes in MiFID II and the point at which legislation changes to enable it to collect fees for the changes of scope.

Forms

The FCA provides feedback on the changes to Form A consulted on in CP16/29.

Next steps

Comments are requested by 17 February 2017, except for comments on Chapter 7 (Fees), which are requested by 16 January 2017.

The FCA will finalise the changes to its Handbook to implement MiFID II in the first half of 2017. It anticipates publishing two policy statements. The first policy statement, which the FCA aims to publish in March 2017, will mainly cover matters consulted on in its December 2015 consultation

paper, CP15/43. The second policy statement, which the FCA aims to publish in June 2017, will cover all other issues on which it has consulted.

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