

Overview

MIFID II and MIFIR take effect from January 2018, expanding the scope of the previous directive and creating a new directly applicable regulation to include new securities, new regulated activities, and new procedural obligations for firms.

Preparation for January needs to be prioritised to ensure that the correct regulatory permissions and compliance programme is in place in time.

The FCA released its guide to applications and notifications for MIFID II compliance in January 2017, highlighting a number of key deadlines that are discussed here.

Step 1: permissions gap analysis

In order to establish which applications and notifications are required, firms must assess their regulatory permissions in light of their business strategies.

The firms facing the most material changes will be those who previously relied on exemptions, those yet to obtain authorisation and those contemplating business expansion or diversification.

It is possible that the majority of these firms will need to submit a full MIFID II authorisation application prior to July 2017. The FCA Connect portal is due to be open from 30 January 2017 to facilitate this.

Others with less material changes, for example the addition of a previously out of scope security to existing permissions, will be able to apply for a voluntary variation of

permissions if required through the same portal to ensure business continuity.

Step 2: submit relevant applications and notifications by deadlines

Full authorisations and variation of permissions applications must be submitted by **3 July 2017**.

The earlier these are submitted, the better, as the FCA is likely to receive high volumes close to the deadline.

Applications for new or amended cross border service passports (these may need to be expanded to include the new securities in scope) must be submitted by **2 December 2017**.

Firms can submit these **from 31 July 2017**; therefore as soon as step one is complete, it is advisable to start preparing these applications.

Step 3: enhance compliance programme

Once new permissions have been applied for, a firm's current compliance programme will require a review to ensure that it covers the new scope of activities.

Such revision is likely to include updating the compliance manual with new procedures and expanding the compliance monitoring programme to include new securities, activities and jurisdictions as appropriate.

The compliance team will also need to ensure that internal reporting and communications are fit for purpose to allow for expansion in trade and investor reporting.

Step 4: deliver training on new procedures

MIFID II is likely to require new or expanded governance procedures. For example, firms trading in emissions allowances will need to ensure that origination and distribution oversight procedures are compliant.

A key aspect of ensuring new procedures take hold is to train staff in how new rules will impact their roles.

Please contact us to discuss your firm's next steps.

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