
Notes: EVIA/LEBA MiFIR Working Group
Date: Wednesday, 10th October 2018
Time: 10.30am

1. MiFIR issues update log

- a. No further new items added
- b. No further items removed

2. Brexit

- a. UK Draft MiFIR 2018 amendments on EU Exit, take effect 29 March 2019
 - A general discussion on the political status and outlook for the Brexit negotiations was held with specific reference to the operation of cross border liquidity pools and the competencies and clarifications that would be asked of national regulators going forward. The expectations by clients on the TV reorganisation and subsidiarisation was a particular topic raised as all parties take reliance on mutual data sets.
 - EVIA continues to hold a series of conversations with senior staff in the markets division of HMT who are leading the Brexit co-ordination in respect of wholesale FS and MiFIDII/R in particular. Impacts on other parts of the EU acquis were discussed, including post trading obligations and the implications on the use of reference data in relation to benchmarks used in derivatives arranged and executed between counterparties in cross border regimes and those novated into overseas CCPs.
 - The Government have published various UK Statutory Instruments (SI's) of MiFID II for the transposing preparation for Brexit. Another 40 SI's to follow, these include amendments to Financial Services and Markets Act 2000 (FSMA) and the Regulated Activities Order 2001 (RAO) and includes:
 - continuation of C6 exemption in energy forwards that must be physically settled and traded on an OTF in the EU.
 - emission allowances to continue to be a financial instrument so that there is no change to how they are currently traded on UK markets.
 - Exemption for ancillary activities will also remain so the scope of the regulatory perimeter is not changed by EU withdrawal
 - Treatment of UK branches of EEA firms to submit transaction report to the FCA in the same way as UK branches of third country firms. UK branches of EEA firms will need to adapt their reporting systems

- Grants FCA temporary powers related to waivers and threshold conditions to amend certain calibrations which are frozen on exit day as the abrupt move to using UK only data could result in adverse implications for the functioning of the markets.
 - It was commented that some banks are starting their Brexit plans for branches and applying for licences to the UK
 - FCA published its direction regarding how an overseas person can apply to be a recognised overseas investment exchange (ROIE). This enables the participation of the exchange in UK markets. Treasury is not planning to put in place a temporary regime for EEA market operators in the event UK leaves the EU without an agreement and without an implementation period, and as such EEA market operators would need to be recognised as a ROIE.
- b. GFXD (AFME FX) organising an FX TV Brexit roundtable for 16th October

The basis of the information sought has been collated by GFXG into a questionnaire that looks at TV plans under Brexit to offer and/or move the following market sectors into EU:

- i. FX Spot
- ii. FX Forwards (Swaps)
- iii. FX Packages
- iv. FX NDFs and Options (Derivatives)

EVIA had confirmed its own attendance but had recommended to GFXD/AFME that it may be better if they seek bi-lateral discussions with the respective firms rather than a roundtable.

3. AOB

- a. ESMA is due to publish its verdict on periodic auctions in equities as there were concerns that some periodic auction systems may have been designed to circumvent the double volume count regime. It was noted that this ESMA workstream is not applicable to non-equities and derivatives.