TISA leading on investments and savings

TISAtalk 16th July 2015

FOR THE RECORD

Greece and its current predicament is not the only European issue that should be occupying the minds of UK financial advisers. Some other things emerging from the EU should also be at the forefront of their thinking.

Firstly, they need to check closely to determine if they are caught under the incoming MiFID rules which will force them to keep five years of telephone recordings where product recommendations are made, or a conversation is held which will lead to a trade or product placement.

Unfortunately, the UK regulator has admitted that it has lost any chance of arguing against that debate in Europe, as disclosed by them at TISA's recent MiFID II industry event. The FCA had simply lost the debate on keeping recordings of conversations where product recommendations are made. The majority of the 28 jurisdictions are happy with such a ruling and indeed a number already have it in place to protect consumers.

Under MiFID II, the rules, which are currently up for industry discussion, state that telephone conversations of certain transactions including those that relate to product recommendations and those that are intended to result in a transaction must be recorded. Interestingly this requirement does not exist in our current domestic framework for those Article 3 firms that are retail IFAs and boutique corporate broking firms. Anyone caught by MiFID II will be subject to these fixed rules, whereby five years of recordings must be kept.

The timetable as it stands, with the Treasury's consultation having closed, means that legislation is expected to be presented to Parliament next year. This will follow an FCA consultation in December this year (2015), incorporating consideration of responses to the recent discussion paper on implementation of the EU regulations.

A policy statement is then expected by 3 July 2016, setting out finalised rules for how MiFID II will be transposed into the UK. The date for implementation across Europe is set for 3 January 2017.

The road of travel is clear here - the industry needs to recognise that this isn't just awkward legislation being dropped on the UK by Europe. MiFID II chimes in with what the FCA has been trying to do as a regulator and how clients should be treated.

Secondly, another issue to also consider pretty quickly is that of dealing commission regulations as we have only one year until MiFID II regulations are transposed into law, and both advisers and fund firms need to be clear on how to separate charges for trading shares from the cost of broker research.

ESMA will issue further guidance on the policy, which aims to reduce conflicts of interest and increase transparency, which is now expected to be released in September 2015. The main issue here is that firms cannot bundle charges and costs onto consumers and have to begin paying for broker research separately. Investment houses cannot route broker commission back into funds and have to pay it out of balance sheets instead, which will then also be subject to VAT.

The real change here is in the way research services are paid for and the clear possibility of much-reduced coverage and availability of these services. In essence wealth managers, in common with all buyside firms, will have to budget and pay for all research from brokers or independents, as a distinct separate charge, which is not related to or bundled with trading commissions in any way at all.

Again, the road of travel is making the cost of research more transparent and reducing unnecessary costs for end investors. The FCA will be looking to asset managers to separate research and execution costs, and instead have distinct research budgets, which will lead ultimately to greater transparency and lower costs for clients. So wealth managers in the UK and, by extension, advisers, will definitely be affected by whatever changes in the scale and range of brokerage research that emerges as a result of MiFID II.

Interestingly amongst some fund groups, research budgets are being defined, with a realisation that irrespective of how these may be funded, they will attract VAT (unlike trading commissions). It will be interesting to see how the others in the market respond - they haven't got too long to work it out!

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