

MiFID II: Are You Ready?

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The new year will see the launch of the revised Markets in Financial Instruments Directive (MiFID II). The new regulation will affect not just asset managers' compliance arms but their entire business models, according to Paul Atkinson (director of Derwent Communications). At a recent event hosted by the Financial Services Forum and chaired by Mark Colegate, the editorial director of Asset TV, Atkinson and his fellow experts discussed how MiFID II could change the way asset managers communicate with their clients.

To pay or not to pay for research

Once MiFID II kicks in, firms will need to separate out the costs of external research and choose to either absorb these costs or to pass them on to clients.

Several big asset managers have announced they will pay for the research themselves. This means that these buy-side firms could potentially call a halt on purchasing insights from some sell-side providers once MiFID II is implemented. But of course, most firms will be willing to spend a minimum amount on external research, according to panellist Nick Bayley, the managing director for compliance at Duff & Phelps.

The decision on whether to pay or absorb research costs is far from simple. A key issue is the definition of research. Collating public information may count as research in the ordinary sense but is it something that will add value to end investors? Only if it does, will it be classified as research that needs to be paid for under MiFID II. Under the proposed regulation, research involves implicit recommendations or material that counts as an inducement – that is, something which will get investors to change their behaviour. However, if this information is made widely available, it does not constitute an inducement, thus, it doesn't need to be paid for – either by asset managers or clients.

What are the implications for marketers?

The fact that research will need to be accounted for will have implications for content marketing. Under MiFID II, "companies will need to focus on distinguishing research from content provided for marketing", said panellist Courtney Waterman (head of EMEA marketing and digital, Schroders). Thought leadership – which generally targets people who are at the stage when they are just thinking of investing – could be a grey area. Firms will need to be careful that this does not involve investment recommendations; if these are included, it means that the content could be termed research and not just marketing, according to panellist Kathryn Howchen-Reeve, who is head of product marketing at BNY Mellon Asset Management.

When a piece is made publicly available, it is unlikely to be considered "research" under MiFID rules. However, distributing thought leadership pieces and other such content could be a challenge once the [General Data Protection Regulation \(GDPR\)](#) is implemented in May. Under GDPR, companies looking to distribute content to individuals must have received their consent. Consequently, making information widely available so it is not considered research, while simultaneously (to comply with GDPR) excluding people who have not opted to receive the information could be tricky, according to Waterman.

Communication is key

The focus of MiFID II is on increasing transparency and consumer protection – principles that practically everyone would agree with. But these elements also mean that firms will need to step up their communication efforts.

Atkinson emphasised the need for firms to adopt an integrated approach. This involves putting themselves into their clients' shoes and managing the flow of information so that it is easily digestible for clients, particularly end-investors. Firms also need to ensure that they are consistent in the messages they send out. Such an approach will also increase these firms' reputations with their clients.

When it comes to marketing communications, Waterman said that suitability is an additional element to consider. Asset managers need to ensure that the material they send out is appropriate for the target market. Focusing on product governance is key to achieving this goal. One way to do this is for asset managers to emulate Schroders' in conducting "regular health checks" to make sure products are geared to the target audience.

Balancing presentations of risk and reward is also important, she added, so that the information presented meets the "fair, clear and not misleading" requirement.

But Howchen-Reeve also stated that firms will have to accept there will be trade-offs when communicating information under MiFID II. Once again, there could be some conflicts with GDPR. This and the wide-ranging aims of MiFID II resulted in all the panellists agreeing that the new regulation was likely to pose organisational challenges for asset managers.

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