

NCMF - MiFID

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The FSA view – CP 06/9

- Common platform firms new SYSC provisions
- Capital requirements directive and MiFID
- CRD requirements 1 Jan 2007 and transitional choice for common platform firms for MiFID elements prior to 1 Nov 2007
- MiFID information can be found on the FSA website at:<http://www.fsa.gov.uk>

General organisational requirements

- Business continuity
- Accounting policies
- Regular monitoring
- Audit committee
- Persons directing the business
- Responsibility of senior personnel



Employees, agents and relevant persons

- Skills, knowledge and expertise
 - Honesty and competence assessed against that individual's role
- Segregation of functions
 - Relevant persons not compromised by multiple functions
 - Senior personnel to define segregation of duties
- Relevant persons awareness of procedures
- Systems etc to take account of business
- Firm must monitor and evaluate



Compliance

- Adequate policies/procedures to ensure compliance
 - Permanent and effective to advise and monitor
 - Authority, resources, expertise and access to information
 - Independence, conflicts and remuneration
- Separate and independent internal audit
 - Audit plan to examine and evaluate adequacy and effectiveness of firm's systems, controls and arrangements
 - Issue recommendations and verify compliance
 - Report in relation to internal audit matters
- Financial crime

Risk control

- Risk management policies and procedures
- Effective management of the risk (independent?)
- Senior personnel approval and review
- Firm must monitor:
 - Risk management policies and procedures; level of compliance; remedial measures
- Credit and counterparty risk
- Residual risk, market risk, operational risk and liquidity risk

Outsourcing

- Reasonable steps to avoid undue operational risk
- Not impair materially the quality of internal control or ability to of FSA to monitor
- Operational function is critical/important if defect or failure materially impairs compliance with authorisation obligations, financial soundness or continuity of its services or activities
- Outsourcing firm:
 - retains full regulatory responsibility; must take steps to meet certain conditions; must have written agreement; provide information to a MiFID regulator if requested

Conflicts

- All reasonable steps to identify a conflict
- Types of conflict (all customer types)
- Conflicts policy
- Disclosure of conflicts
- Record of services
- Chinese walls

Best execution

- Applies for both retail and professional clients
- Firms to take into account the following criteria:
 - Client characteristics including categorisation
 - Nature of the client order
 - Characteristics of the financial instruments
 - Characteristics of the venues
 - But for retail determined in terms of ‘total consideration’
- Following client’s specific best X instructions sufficient
- Must not structure commission charges to discriminate unfairly between venues

Best execution policy

- Firms must provide retail customers with details of execution policy in good time prior to acting
 - Details of the relevant importance firm assigns to each factor
 - A list of execution venues on which the firm places
 - Must include a warning that specific client instructions may prevent firm from applying its best X policy
- Best X policy must be reviewed annually
- Best X policy must be reviewed wherever a material change occurs

The logo consists of a stylized, upward-pointing chevron shape in a light brown color, positioned above the letter 'N' of the word 'NORTON'.

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