

NCMF - MiFID

Helsinki 12 June 2006

Peter Snowdon

Tel 44 207 444 3912

peter.snowdon@nortonrose.com

Disclaimer

Please note that the materials in this pack contain information confidential to Norton Rose. Copyright in the materials is owned and retained by Norton Rose and the materials should not be copied or disclosed to any other person without the express authorisation of Norton Rose.

These materials have been prepared for training purposes only and not to give legal advice and, accordingly, they should not be relied upon. They are intended only to provide a general outline of the material covered. They should not be regarded as a comprehensive statement of the law and practice relating to this area. Readers should take specific legal advice on any particular matter which concerns them. If you require any advice or information, please speak to your usual contact at Norton Rose.



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

NORTON ROSE

