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Submitted to cp16-29@fca.org.uk



London, January 4th 2017

Consultation Paper CP 16/29 - Markets in Financial Instruments Directive II Implementation – Consultation Paper III

Dear Sirs,

IHS Markit is pleased to submit the following comments to the Financial Conduct Authority (“**FCA**”) in response to its Consultation Paper CP 16/29(**CP**).

IHS Markit¹ (Nasdaq: INFO) is a world leader in critical information, analytics and solutions for the major industries and markets that drive economies worldwide. The company delivers next-generation information, analytics and solutions to customers in business, finance and government, improving their operational efficiency and providing deep insights that lead to well-informed, confident decisions. IHS Markit has more than 50,000 key business and government customers, including 85 percent of the Fortune Global 500 and the world’s leading financial institutions. Headquartered in London, IHS Markit is committed to sustainable, profitable growth.

Comments

MIFID II is one of the most ambitious pieces of financial services regulation ever to emerge from the EU. Its effects will be far reaching and potentially uncertain. We strongly support the aims and objective of MIFID II and believe that it will provide a number of benefits to the way markets operate in the EU and help improve investor protection. However we believe it will be important for regulators, financial service industry and market users that the implementation of MIFID II be made as clear and simple as possible. In respect of the issues under discussion in this CP, we would like to offer the following general comments:

¹ See www.ihsmarkit.com for more details

- i) We broadly support the objectives of the FCA's proposals to reform the systems used for payment for research. We believe the approach outlined by the FCA in the CP could operate effectively, we would urge the FCA to remain focused on ensuring that the final rules and implementation lead to a workable system for market participants. We would also ask the FCA to consider how the equivalent provisions are being implemented in other EU jurisdictions so that market participants in the UK are not faced with systems that are substantially different to other jurisdictions.
- ii) The repapering of client agreements is likely to be particularly onerous if performed manually or through paper based systems. We believe that the FCA should embrace the RegTech agenda during MiFID II implementation, particularly in this area. The FCA should facilitate investment firms and their clients being able to leverage technology solutions to streamline such processes and ensure they are ready when MiFID II applies in January 2018. This would also help the FCA ensure compliance in a more effective and consistent way.

Questions

Q10: Do you agree with our approach to extending the research and inducements requirements to firms carrying out collective portfolio management activity? If not, please give reasons why.

We agree with the FCA that a common approach should be adopted between MIFID investment firms and other firms that consume research on behalf of their clients in a similar way. This should ensure a consistent and more understandable approach for investors and the producers of research as well as providing a level playing field between firms operating under MIFID and those under UCITS and/or AIFMD.

Q12: Do you have any views on areas where we have proposed new guidance provisions to clarify our interpretation of steps firms could take to ensure compliance with the new inducements and research proposals and the detail of the proposals? If not, please give reasons why and any alternative suggestions.

IHS Markit generally agrees with the steps the FCA has proposed in the CP. The proposal that research budgets could be set for multiple clients that share similar investment strategies and objectives, that this could be done 'top down' or 'bottom up' and that the allocation between clients would be estimated and allocated upfront is particularly welcome (3.21-3.23). This is consistent with the way platforms are being developed to meet the needs of industry.

We also welcome the FCA's specific acknowledgement that third party services could play a role in supporting firms through the operational changes required for these new rules (3.42). Using third parties, such as IHS Markit and its competitors, would allow firms to develop and share best practice approaches while minimising the costs compared to developing and building individual systems. This should also benefit the regulator as it would lead to fewer, better quality approaches than every firm being required to develop and implement its own approach, which could also lead to regulatory competition between firms. We would suggest that, where appropriate, the

FCA endorses such standards and also considers establishing a certification process for RegTech providers that operate to certain standards without extending the regulatory perimeter.

IHS Markit is in the process of developing a broad platform that will ensure the specific research charge demonstrably contributes toward research that assists investment decisions and is allocated in a fair way. We are also developing tools that will enable the ongoing assessment of research efficacy. Our product will sweep research charges to separate RPAs as regularly as required while allowing more detailed reconciliation on a less frequent basis. All of these features are in line with the FCA's proposed requirements. We will also engage a third-party global bank to ensure the research funds are ring-fenced and separately identifiable (3.24) from other funds and that payments for research are made promptly. Our RPA product will also allow managers to rebate any remaining funds to the client, although we would suggest 'significant amounts' (3.24) is clarified to mean a certain percentage of the overall budget. In addition, we would be able to meet the proposed requirements to provide mechanisms that block the receipt of unsolicited research (3.39).

Q15: Should we apply the new MiFID II inducements standards to firms carrying out non-discretionary portfolio management activity (as defined in our Handbook glossary), including where they receive third party research, in the same way as for other types of portfolio management? Please provide evidence to support your views.

We support a consistent approach to regulation across firms, Portfolio managers which are acting on behalf of their clients in a similar way to other investment firms and firms engaging in multiple activities. Therefore a uniform set out requirements seems sensible.

Q18: Do you agree with our approach to implementing the MiFID II requirements that relate to providing information to clients?

As the FCA focuses on the implementation of MiFID II in the UK it should be mindful of the costs that investment firms and their clients will incur establishing new or updated agreements, a process sometimes termed as 'repapering'. This process would need to be completed before the counterparties could continue carrying out trading activity once MIFID II applies.

A number of elements of MIFID II will mean investment firms have to repaper agreements with clients as changes to terms of business are required, including under the proposed changes in Section 5 of the CP. During the implementation of MiFID I, these agreements were often on paper with changes communicated to clients via post in resource intensive processes. Anecdotal evidence suggests that these repapering costs were as high as £10m for more complex firms under MIFID I. This was an extremely inefficient process and a huge burden on the operations of investment firms and their clients with a high potential for errors or delays. In some cases, where investment firms were issuing a notification to clients there was no mechanism for these firms to know if their clients actually received the notifications. We expect MIFID II to be even more complex.

However, RegTech provides potential solutions to manage such processes. A number of firms, including IHS Markit, offer products that help investment firms manage communications with their counterparties including the repapering of terms of business and trading agreements. Markit Counterparty Manager is a secure and fully auditable

platform housing various tools that help users create, manage, send, track and store messages for client outreach. Based on those responses, the platform also allows users to electronically repaper terms of business and trading agreements, creating digital, machine readable versions of the executed documentation for consumption by downstream systems. It can also help firms collect client information to satisfy their regulatory obligations in a way that can easily be checked by regulators.

Firms are already using the platform to manage their client classification obligations for both KYC and tax purposes (Dodd-Frank, EMIR, FATCA, CRS and others) and are currently using it to manage the new regulatory requirements for uncleared margin as set out by BCBS-IOSCO.

By utilising the same platform for multilateral outreach as is already used by over 7000 investment firms to store and share their classification data, the compliance burden can be significantly lowered by avoiding duplication of effort, reusing data across regulation and counterparty relationships as appropriate. Mutualising the cost of these resource intensive processes allows for a more commercially effective solution to the problems they experienced during MIFID I.

We believe that, in line with the FCA's RegTech agenda, it would be extremely helpful to market participants if the FCA made it clear to firms in scope of MIFID that they could look to leverage technology wherever possible to improve the efficiency and efficacy of their work, including the repapering process. As well as lowering the burden of Regulation, it would also help regulators ensure high standards as compliance checks would be quicker and more accurate.

**Q48: Do you agree with our proposed approach for client agreements?
If not explain why and provide cost benefit data.**

Please see our response to question 18.

We hope that our above comments are helpful. We would be more than happy to elaborate or further discuss any of the points addressed above in more detail. If you have any questions, please do not hesitate to contact us.

Yours sincerely,

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