asset servicing times

MiFID II: one year on

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The second Markets in Financial Instruments Directive (MiFID II) has “largely been successful across most parts of the market and the industry has bent over backwards to implement reforms, despite some early challenges”, according to Linda Gibson, director of regulatory change and compliance risk at BNY Mellon Pershing.

Gibson’s comment comes as the industry marks MiFID II’s one-year anniversary as part of EU legislation, after being implemented on 3 January 2018. She said MiFID II’s agenda set out “an ambition to fundamentally reform the EU financial markets for the better”.

MiFID II regulates firms that provide any services to clients linked to financial instruments and venues where these instruments are traded.

Both before and after the implementation date, many industry participants raised concerns about the scope of the changes and the uncertainty surrounding the directive.

As Chris Turnbull, co-founder of Electronic Research Interchange, surmised: “With the MiFID II regulation now reaching its first birthday, it is interesting to look back at a year that many thought would bring substantial change for the asset management industry.”

He adds: “In hindsight, it may have been naive to expect quick-fire change from an industry that has operated in a certain way for decades. The overwhelming majority of firms were unprepared for the changes last January, and the state of confusion continued throughout the year.”

Industry confusion was not helped by the European Securities and Markets Authority (ESMA), who delayed the enforcement of the legal entity identifier (LEI) requirements by six months to July 2018, just one month before the implementation date.

MiFID II requires all legal entities involved in a trade to include their LEIs in European trade reporting.

However, ESMA said that its decision would allow for a “smooth transition” of the LEI requirements. The six months adjustment period was introduced since not all firms succeeded in obtaining LEIs in time for the January deadline.

Similar to the LEI delay, firms had to make other amends to their existing systems and processes based on the varying feedback they received from local regulators, in addition, banks and asset managers had to centralise and check their data thoroughly—many are still in the process of achieving this.

As Juan Diego Martin, COO at Fonetic, affirmed: "One year on from MiFID II and we’re still faced with unanswered questions.”

“This is particularly the case when it comes to communications monitoring in financial institutions. In fact, some of the rules have still not been implemented by some asset managers and small banks, who are still not monitoring their communications in accordance with the regulations.”

Peter Moss, CEO of SmartStream Reference Data Utility, said: “Complying with regulations is an ongoing process. Since the 3 January, ESMA has implemented a range of additional MiFID requirements on a regular basis, this included the double volume cap, the no LEI, no trade rule, the SI mandatory regime for equities and fixed income.”

He added: “MiFID II was ambitious in the scope and detail of the definitions that it imposed on the market; other regulators have learned from this approach and are revisiting some of the regulations, for example, such as Dodd-Frank in the US.”

A new study conducted by Plato Partnership in December 2018 found research unbundling is already going global—53 percent of buy-side respondents have already implemented a global policy and a further 20 percent will do so within the next 5 years.

“In Europe, the change may be regulatory driven, but across the rest of the world it is being led by end investor demand”, Plato Partnership said.

Where the sell side is concerned, Michael Horan, head of Trading and BNY Mellon Pershing commented: “The impact of research unbundling on sell-side research was well-documented in 2018, and the exodus of research analysts from the sell-side will continue into 2019.”

He added: “However, the more impactful trend to come out of research unbundling is the unintended consequence of reduced liquidity across small and mid-cap equity markets, because of lower company coverage on these types of stocks.”

Turnbull said that overall we are still in the infancy stage of understanding and adapting to the regulation.

He added: “We are very much in the infancy stage at this point. It could take five years for the regulation and implications of MiFID II to finally bed down across the industry, so we have a long way to go.”

And as Volker Lainer, vice president of product management at GoldenSource, indicated: "As the candle blows out on MiFID II's inaugural year, it is clear banks, brokers and asset managers can ill afford to sit and ponder what to do next. With new regulatory headaches pending, financial institutions face the daunting prospect of collating and reporting on even more detail."

He added: "With this in mind, it is surely high time for market participants view regulation not as a need to do, but as a long-term opportunity to reduce total cost of ownership."