



FINANCIAL REGULATOR
Rialtóir Airgeadais

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29 September 2008

Re: Themed Inspection: Client Categorisation

Dear Sir/Madam

The European Communities (Markets in Financial Instruments) Regulations 2007 [the MiFID Regulations] came into effect on 1 November 2007. As part of our ongoing supervision of investment and stockbroking firms, the Financial Regulator undertook a themed review in respect of the requirements relating to Client Categorisation. A number of on-site inspections were carried out and the purpose of this letter is to provide firms with feedback in relation to our findings. We hope that it will assist you in developing and ensuring your firm's compliance with the MiFID Regulations.

Correct client categorisation under the MiFID Regulations is the starting point for ensuring that clients receive the appropriate level of regulatory protection. The MiFID Regulations set out a three-tier categorisation system classifying parties as retail clients, professional clients or eligible counterparties. Different levels of regulatory protection apply to each category of client. The purpose of the review was to ensure that all clients are correctly categorised, have received notification of their client categorisation and have received details of any right to request a different categorisation.

Overall, the themed inspections revealed a high level of compliance with clients being correctly categorised. However, a number of issues were raised by the Financial Regulator and addressed with the firms involved. We would ask you to consider whether any of the issues set out are relevant to your firm.

- Schedule 2, Paragraph 3(9) states that an investment firm must implement appropriate written internal policies and procedures to categorise clients. There were issues with the content of some client categorisation policies and procedures.
- Regulation 81(1)(a) states that an investment firm shall notify existing clients that the firm has newly categorised and new clients of their categorisation, as retail clients, professional clients or eligible counterparties. In a number of firms there was a failure to notify some clients of their categorisation or a failure to maintain evidence of this notification on file.
- Regulation 81(1)(b) states that an investment firm shall inform clients in a durable medium about any right to request a different categorisation, and about any limitations as to the level of client protection that the different categorisation would entail. The inspections revealed that in some instances clients had not been notified about their right to request a different categorisation or about any limitations as to the level of client protection that the different categorisation would entail.
- Regulation 81(3) states, *inter alia*, that an investment firm shall provide the retail client or potential retail client with the terms of the agreement in good time before the client or potential retail client is bound by any agreement for the provision of investment services or ancillary services, or the provision of those services, whichever is the earlier. Not all clients had received updated terms of business documentation prior to the provision of investment services.

The inspections highlighted the importance of maintaining proper records to enable the Financial Regulator to monitor compliance with the MiFID Regulations.

We appreciate that not all of the issues discussed in this letter will be applicable to your firm. Nonetheless, we hope that you find the information useful as you review your firm's compliance with the MiFID Regulations.

Should you have any queries in relation to the contents of this letter please contact Terry Murphy at 01 410 4873 or Philip Brennan at 01 410 4962 or email mifidconductofbusiness@financialregulator.ie.

Yours sincerely

Colette Drinan
Deputy Head
Consumer Protection Codes Department