



FCA sets out its enforcement position on MiFID II firms

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Delivering a speech on the 20th September 2017 at the De Vere Grand Connaught Rooms, London, Mark Steward, Director of Enforcement and Market Oversight set out the regulator’s position regarding its enforcement actions of MiFID II firms.

There has been an approximate 75% increase in the number of FCA investigations over the past year, because of three factors:

1. More investigations into capital market disclosure issues
2. The extension in scope of the reporting regime for firms, brought about by MAR, which has given the FCA a richer and more varied market picture, leading to more cases being selected for investigation
3. The FCA’s change in approach when deciding whether to open an investigation
 - MiFID II, and improvements in the FCA’s capacity to collect and aggregate order book data from all venues, will allow the FCA to understand the markets it supervises with much greater precision, detect serious misconduct earlier, and improve its policy assessments
 - The FCA will act proportionately, when deciding whether to take enforcement action against firms covered by MiFID II, which have not transitioned in time for 3rd January 2018

Here some of the speech extracts:

- “As always, we intend to act proportionately. In this context, this means we will not take a strict liability approach especially given the size, complexity and magnitude of the changes that are required to be in place.”
- “We are very aware of how much work many firms have been engaged in for a very long time now in re-tooling and preparing for next year.”
- “This means we have no intention of taking enforcement action against firms for not meeting all requirements straight away where there is evidence they have taken sufficient steps to meet the new obligations by the start-date, 3rd January 2018.”
- Mark Steward also said firms should feel “assured and confident” they can continue to work with the regulator to be ready for Mifid II and also added, “At the same time, we cannot create a floor for compliance below the required Mifid II standards and so our disposition is likely to be different where firms have made no real or genuine attempt to be ready or where key obligations are deliberately flouted.”

To read the full speech by Mark Steward (as drafted) please follow this link: <https://www.fca.org.uk/news/speeches/better-view>

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