

Europe: FCA Advances Efforts to Address the UK's EU Legislative Legacy, Starting With MIFID

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Following an HM Treasury [policy statement](#), the FCA has published a [consultation paper](#) proposing amendments to some of the Markets in Financial Instruments Directive (MIFID) conduct of business and systems and controls rules inherited from the EU that continue to exist in the UK statute book in close to their original form.

The FCA has proposed an initial like-for-like transfer of rules into the appropriate parts of the FCA Handbook although some material is being dropped (for example, some recitals and other provisions from the EU legislation that they consider to be superfluous). It also envisages certain substantive amendments to reduce complexity and over prescription, e.g.:

- Rationalising duplicative rules
- Eliminating distinctions in rules for different types of firms where obligations are substantively similar
- Tailoring language to better suit specific types of business, e.g. in cases where a distinction is necessary but has previously been ineffective

The FCA has identified an immediate opportunity to harmonise rules on conflicts of interest and best execution by unifying similar rules from legacy MIFID, UCITS and AIFMD regimes. It is also contemplating changes to client classification thresholds to create clearer and more flexible rules. In the longer term, the FCA has indicated an interest in eliminating the MIFID/non-MIFID distinction and instead basing firms' regulatory responsibilities on the risks of harm in their respective business models.

The consultation paper lays out two stages of responses. The first, closing on 28 February 2025, should be uncontroversial as it just relates to the transfer of rules into the FCA Handbook. The second stage, which addresses substantive content amendments, closes on 28 March 2025.

Expect a policy statement from the FCA in H2 2025, as the FCA continues to work towards a tailored regulatory structure for UK portfolio managers (as well as others affected by MIFID rules).

Harriet Sherwin also contributed to this article.

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National Law Review, Volume XV, Number 59

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