asset servicing times

The race is on

Although MiFID II came into play on 3 January this year, now is not the time to relax as the job is only half done, says Peter Moss of SmartStream

It's been a very busy few months for many people in the financial industry. Many long hours have been burned in the months leading up to Christmas and the New Year and many people had their holidays disrupted. The normal annual change freeze went completely out of the window.

But, on the 3 January, day one for the second Markets in Financial Instruments Directive (MiFID II) and the Markets in Financial Instruments Regulation (MiFIR), there were no major disasters, no systemic failures and, I think, many heaved a massive sigh of relief. The market continued to operate. All of the effort that had been poured into making MiFID II real had paid off. Volumes were light, but then this was the first week of January, so perhaps no surprise.

Everything was certainly not perfect. Some things have been deferred for six months, for example enforcement of the requirement to have LEIs for every client or participant in a market transaction. Some data are still not available, for example the double volume cap data that will be published by The European Securities and Markets Authority (ESMA). And, many things were changing right up until the last minute, with announcements from ESMA literally on the Friday before Christmas. In fact, I think it is fair to say that it was impossible for everyone to get everything perfect.

We are now in a transition period. The foundations have been laid, the fundamentals are in place and focus can now be given to all of the details that are not quite working. It's a slightly open-ended transition period at the moment, with limited clarity on when the regulators will start to hold the market to account, but as things settle down and the final pieces fall into place, it is only a matter of time before the scrutiny is applied and the regulatory enforcement actions start to flow. Now is NOT the time to relax, the job is only half done.

So what is everyone now doing? What should you focus on?

Remediation is the most important place to start! In every organisation there will be many things that are not working as they should. Massive amounts of new data are required in order to ensure that MiFID II functions effectively, some of this data may be missing, wrong or simply being interpreted incorrectly. Many new processes are being tested for the very first time and will need bedding down, many will need further automation, and some may need a complete re-write. Across the markets there are still many things that ESMA and the NCAs need to get right. The key is to work through all of this as quickly as possible and stay focused on the regulatory changes as they are announced. You do not want to be last!

Optimisation is probably also essential. Given the hard deadline, some corners will have been cut, some technology will have been thrown together at the last minute, data will have been sourced in inefficient ways. Now is the time to step back, review what you have built over the last 12 months and decide whether what you have is robust, resilient to failure, sustainable and cost effective. What you have built, now needs to operate for the foreseeable future and may need to be applied in other jurisdictions. Did you throw together something that is a tactical fix or did you build something that your organisation can comfortably rely on for the next 20 years?

A control framework is required. MiFID RTS 22, Article 15 (see p25) is very clear about the need to be able to verify that you are reporting correctly to the regulators and transparently to the market. Very few firms have focused on this aspect of MiFID II so far—the effort has been much more on putting the basic mechanisms in place. But, now is the time to look at control frameworks in a serious way. How will you independently verify that your business is reporting accurately? Do you have an independent data source? Do you have the reconciliation processes in place to make sure that what you did is what you reported? You do not want to be in a position where the regulator is the first to know that you are reporting incorrectly.

New deadlines will also need to be monitored carefully. For example, in September, it will no longer be your choice whether you opt to be a systematic internaliser (SI), the regulator will tell you based on the volumes of trades that you are doing. If you trade high volumes in certain instruments are you ready to apply the SI transparency rules? Another example, if you are outside of the EU, but invest heavily or trade heavily with the EU, are you clear about how the MiFID regulation applies to you? This will get clarified over time and you need to monitor the regulations to see how you will be impacted.

The SmartStream Reference Data Utility (RDU) assists financial institutions in meeting these challenges, through the provision of accurate, complete and timely datasets for regulatory reporting. Specifically, in relation to MiFID II/MiFIR, the SmartStream RDU offers a fully integrated reference data set to support pre-trade price transparency, post-trade reporting and transaction reporting. It sources data from ESMA, the Association of National Numbering Agencies, Global Legal Entity Identifier Foundation, the National Competent Authorities and trading authorities, as well as enrichment feeds. A financial utility, which is solely dedicated to processing reference data, it can help organisations reduce complexity within their businesses, cut the costs of regulatory compliance, and help provide the rock-solid data foundation that regulatory reporting needs.

My key message is that now is not the time to relax. In many ways, the 3 January was the starting line for a race that will run and run. Now the race is on, you don't need to be first in this race, but you definitely do not want to be the last.