

Challenges for the compliance function in a wealth management firm

by: Ramla Soni

MiFID II, Brexit, SMCR, GDPR and cyber security remain challenges for wealth management compliance teams but their role is also changing, according to Rosalyn Breedy, partner at law firm Wedlake Bell.

“Firms are starting to look at these issues holistically and from a reputation management perspective. We regularly advise on ascertaining, monitoring and enforcing regulatory compliance, but are increasingly being asked to help clients decide what is the right thing for firms to do,” she told a Compeer event held in London last week, titled ‘Compliance is doing things right and leadership is doing the right things’.

When evaluating firms MiFID II compliance it is important to understand the impact of the implementation on these rules on your clients, Ms Breedy said.

For example, under MiFID II firms are currently concerned with looking at initial and ongoing charges with investment products, investment services and third party payments.

“The RDR regime under FCA handbook COBS six is still in place so you have got to be careful about aligning and making consistent your costs and charges disclosures and evaluate how your clients actually perceive the information that they receive.”

The effectiveness of investor protection under MiFID II for wealth managers a year on will be about collecting and evaluating evidence on best execution, product governance, assessing the impact on clients from a suitability perspective and then communicating clearly, Ms Breedy continued.

“Clients may have been told that their portfolio has dropped by 10 percent, followed by a letter that charges have gone up. You’ve got to understand how this may look to clients without forgetting that private clients were caught by surprise last year when legal entity identifiers were put in place.”

Firms are also quite reliant on the information they receive from third parties so you do need to look at your contracts and ensure that you are able to receive the information you need when you need it.

“Think about who is responsible and do people know what needs to be done”, she added.

Ms Breedy said firms are comfortable with understanding and applying compliance rules but don’t always understand that the interdependence with the law.

Addressing this issue with regards to planning for a no deal Brexit, Ms Breedy stated a no deal Brexit from a legal perspective is “extremely dangerous” for the whole industry for several reasons.

Firstly, if we have a no deal Brexit, enforcements of UK judgements under the Brussels 1 regulation could potentially disappear.

It is also hoped that in the event of a no deal the EU would make a formal adequacy decision that the UK data regimes offers an adequate level of protection. The UK intends to incorporate the GDPR directly into English law when the UK leaves and the Data Protection Act 2018 will continue to apply.

"But if an adequacy decision is not given, then firms have to think about how they will ensure they are compliant and make necessary changes to roles, responsibilities and contractual provisions," Ms Breedy continued.

Finally, 20 percent of City professionals are EU nationals, so employers need to help them protect their rights under the EU settlement scheme, she explained.

Another issue the industry faces is cyber security, which had somewhat fallen off the agenda despite GDPR.

"Many firms still do not understand when or how to notify breaches of personal data and I think if you are looking at your risk and crisis management processes, this is also something firms need to be considering," she stated.

With regard to SMCR people are "really underestimating" the personal impact on senior managers.

"We know that there is a lot of consolidation going on in the industry, a number of firms are outsourcing and senior managers may find that they are responsible for people who don't work for them, or [for] issues that occur because of something that happened from an acquired firm."

These are issues senior managers are concerned about, Ms Breedy said.

Highlighting "how to do things right" from a leadership perspective, Ms Breedy concluded that "we need to be much more client focussed, to think about our values, to engage with our employees and to be good at communication as well as complying with the regulations."

It is about "having good substantive values, complying with the spirit as well as the substance of the law and regulation in addition to achieving an effective culture which engages and respects staff," she added.