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MiFID Seminar

MiFID Update - The experience of 2009 and the challenges for 2010

Compliance Ireland announces the 2010 seminar, *MiFID Update - The experience of 2009 and the challenges for 2010* to take place on Thursday 18th February 2010, 8:00am to 9:30am. Martin Moloney, Head of Markets Supervision at the Financial Regulator has agreed to speak at the seminar.

This early morning seminar, which follows on from our hugely successful 2009 MiFID Update seminar, looks back at 2009 and looks forward to the issues impacting upon regulated firms in 2010.

Cost: €40 per person

CPD: up to 1½ hours CPD depending upon your qualification.

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We are pleased to announce that Martin Moloney, Head of Markets Supervision and Secretary of the Financial Regulator, will join us this year to discuss issues of concern to Markets Supervision. In addition Kevin O'Doherty and Peter Oakes of Compliance Ireland will discuss examples of what the Financial Regulator looked for at firms in 2009 and what is likely to be asked for in 2010.

Areas to be covered include:

- Liquidity and bad debt concerns;
- Client Asset Requirements;
- Capital Requirement Directive reporting experiences;
- ICAAP Process;
- Outsourced services;
- Keeping plans, procedures and documentation up to date;
- The impact of new Anti Money Laundering legislation on record-keeping obligations.

Full details at <http://www.complianceireland.com/MiFIDseminar2010.html>.

Download the seminar brochure at <http://www.complianceireland.com/documents/MiFID-Seminar-February-2010.pdf>

Bookings can **only** be made online at <http://www.complianceireland.com/MiFIDseminar2010.html>

Details of our services to MiFID Firms at http://www.complianceireland.com/MiFID_Firms.html.

Details of recent assignments undertaken for MiFID Firms at http://www.complianceireland.com/MiFID_Firms.html#Assignments

Details of our non-executive director services to MiFID firms at http://www.complianceireland.com/Non_Executive_Directors.html

Financial Regulator News

Financial Regulator reminds MiFID firms of ICAAP responsibilities

The Financial Regulator has written to MiFID firms expressing concern that not all firms subject to the Capital Requirements Directive have an Internal Capital Adequacy Assessment Process (ICAAP) in place. This is despite the relevant regulations having commenced in January 2007. Examples of this include where firms leave blank the relevant section of the periodic 'COREP return' or incorrectly relying upon their regulatory capital requirement results for the ICAAP response.

Compliance Ireland is aware that the Financial Regulator is requesting ICAAP process documents. The regulator is reviewing these ICAAPs and in some cases rejecting those not meeting the regulator's requirements.

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This appears to embody the Financial Regulator's more intrusive supervision approach, which its senior management has been broadcasting of late. The effect here will be enforcement of the CRD Pillar 2 provisions. The Financial Regulator has previously reminded firms of the requirement to include ICAAP output numbers in the COREP return. We should all probably expect a similar stance being taken by the regulator to enforce Pillar 3 public disclosure requirements.

Failure by firms to provide such reporting hampers the Financial Regulator in carrying out its SREP monitoring process. SREP monitoring commenced with a small sample of firms in Q4 of 2009. These reviews are still ongoing. **Compliance Ireland** views the Financial Regulator's formal letter as an escalation of regulatory action. The SREP process is to be expanded in 2010 and the ICAAP information being reported in COREP

returns is one of the key factors for selecting firms for review.

The Financial Regulator has indicated that firms should not simply repeat the results of the regulatory capital requirements as their ICAAP out-turn. Firms are expected to have completed a broader analysis of the risks faced by their business. For this reason, the Financial Regulator has indicated that simple assertions to the effect that the minimum initial capital requirement or the fixed overheads requirement is "more than enough" are not acceptable. The firm must have a documented process to determine its internal capital requirement.

Compliance Ireland is aware that the Financial Regulator is requesting ICAAP process documents. The regulator is reviewing these ICAAPs and in some cases rejecting those not meeting the regulator's requirements.

While smaller MiFID firms have struggled with the rationale for preparing an ICAAP, the Financial Regulator states categorically in its letter that limited scale and complexity "does not mean that any firm can exempt itself from having an adequate ICAAP. Neither does it mean that a firm can choose to simply adopt its regulatory capital requirements as its ICAAP output."

Compliance Ireland has assisted many firms of varying size and complexity with their ICAAP Process and Pillar 3 public disclosures. We have seen a variety of approaches and commitment to these tasks both locally and internationally. We are also advising law firms and accountants on dealing with this very technical aspect of regulation.

Active enforcement by the Financial Regulator is liable to cause the boards of firms to look more closely at their (corporate and personal) responsibilities and in particular the need to ensure the ICAAP process is up-to-date and adequate.

Details of our services to MiFID Firms can be found at http://www.complianceireland.com/MiFID_Firms.html.

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Financial Regulator issues Solvency II update briefing

The Financial Regulator has updated its briefing to the insurance industry on the response to the August 2009 survey on the intended use of internal models.

Further details are available on our specialist website <http://www.solvencyii.ie/>.

The Financial Regulator has updated its [briefing to the insurance industry](#) on the response to its survey of August 2009 on the intended use of internal models.

Some 57 firms indicated that they intended to use an internal model. Of these, only 16 will use an internally-developed model which requires approval by the Financial Regulator. The remaining 41 firms intend to import models developed at group level authorised by regulators in other EU states.

The Financial Regulator noted that survey responses revealed a degree of uncertainty among some firms which appeared indicative of a lack of preparation in respect of Solvency II.

Further details at our new specialist website <http://www.solvencyii.ie/> (and www.solvency2.ie).

Financial Crime

UK Tribunal notes use of financial spread betting to commit market abuse

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The case was referred to the FSMT following the FSA's investigation into the activities of Mr Chhabra and Mr Patel. The FSA found that in 2004, Mr Chhabra, a research analyst covering Ebookers and Eidos stocks, passed on confidential information to his friend, Mr Patel who then used that information to place financial spread bets on Ebookers or Eidos stocks. The total benefit made by Mr Patel amounted to £85,541. The FSMT's decision confirms the FSA's findings of market abuse.

Financial spread bets are financial instruments for the purposes of MiFID regulation in Ireland. The case highlights the importance of MiFID firms to keep an eye out for unusual customer activity which the firm should respond to. There is no allegation that a MiFID regulated firm acted improperly. However a MiFID firm would have been used to process the transactions unwittingly. Further interesting reading can be found in the case below [FSA fines broker for failing to prevent insider dealing](#). In that case the individual was fined £20,000 for failing to identify and act on a suspicious client order. The trader's conduct allowed his firm to be used to facilitate insider dealing. The failure by the trader meant his employer failed to report a suspicious transaction to the FSA.

UK Enforcement decisions

We have read and digested a number of interesting UK FSA enforcement decisions. The cases we think relevant to MiFID firms appear in the full article.

We will draw relevant lessons from some of these cases and their application to Irish firms at [our MiFID Seminar](#).

Recent UK Financial Services Authority Enforcement Cases

We will draw relevant lessons from some of these cases and their application to Irish firms at our **MiFID Seminar**.

FSA fines former stockbroker £24,000 for market abuse

FSA fines and bans former UBS employee for helping conceal unauthorised trading losses

FSA fines UBS £8million for failing to prevent employees carrying out unauthorised transactions with customer money

FSA fines Seymour Pierce £154,000 for failing to prevent employee fraud

Dresdner traders censured for abuse in debt market

FSA fines Barclays £2.45m for failures in transaction reporting

FSA fines broker for failing to prevent insider dealing

FSA fines director for not disclosing information about adviser

Training Dates

Compliance Ireland Training Courses in February and March 2010

Compliance Ireland has announced dates for training courses in February and March 2010. Our courses will be held in central Dublin locations and are eligible for CPD hours (dependent on course attended and your professional qualification).

Check our website <http://www.complianceireland.com/publictraining.html> regularly for updates.

Dates for training courses are as follows:

Date	Time	Course
2 February	9:00am – 1:00pm	Role of the Trustee for Collective Investment Funds
4 February	9:00am – 1:00pm	How to handle a Financial Regulator Inspection
9 February	9:00am – 1:00pm	Introduction to Financial Services Regulation in Ireland
11 February	9:00am – 5:00pm	Capital Requirements Directive for Investment Firms
16 February	9:00am – 1:00pm	Complaints Handling & Treating Customers Fairly - (Consumer Protection Code)
18 February	8:00am - 9:30am	MiFID Update - The experience of 2009 and the challenges for 2010
23 February	9:00am – 1:00pm	Directors Duties and Corporate Governance – Credit, Financial and Insurance Institutions Regulated in Ireland
25 February	9:00am – 5:00pm	Anti-Money Laundering/Counter-Financing of Terrorism: Financial Institutions under the new AML Law
2 March	9:00am – 1:00pm	Introduction to Solvency II
4 March	9:00am – 5:00pm	Data Protection of Customer and HR Records and How to Conduct a Data Protection Audit
9 March	9:00am – 1:00pm	Establishing the Internal Audit Function
11 March	9:00am – 5:30pm	The Role of the Compliance Officer - for Banks and Investment Firms
16 March	9:00am – 1:00pm	MiFID - Understanding MiFID and its operational implications
18 March	9:00am – 1:00pm	Risk-Based Compliance Monitoring for Financial Institutions
23 March	9:00am – 5:30pm	The Role of the Compliance Officer - for Insurance Firms
25 March	9:00am – 5:30pm	Anti-Money Laundering/Counter-Financing of Terrorism: Financial Institutions under the new AML Law

Half-Day courses cost €380 per attendee (No VAT).

Full-Day courses cost €620 per attendee (No VAT), €550 for second attendee from same firm attending same day.

To make a booking see full article.

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To make a booking either:

1. **book and pay online at** <http://www.complianceireland.com/publictraining.html> or
2. **send an email to** bookings@complianceireland.com **including your name, company, address and contact number.**

General enquires please use trainadmin@complianceireland.com.

Full details of all our courses are available in our PDF Brochure -
http://www.complianceireland.com/documents/Q1_2010_Training_Programme_Rol_web.pdf

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