

## Best execution

**A**head of their formal consultation process on MiFID, the Financial Services Authority (FSA) has released discussion paper DP06/3 ‘Implementing MiFID’s best execution requirements’. The 50-page document sets out and assesses the challenges firms will face when putting into practice MiFID’s ‘best execution’ principals. These include execution policy formulation, the review of these policies, and how best execution will be achieved in different markets and for different clients.

With firms beginning to start their MiFID planning, the FSA is eager to initiate industry debate in areas such as best execution, which it believes could benefit from dialogue, according to Christina Sinclair, head of institutional business policy, FSA. Furthermore, in an exclusive interview with *The TRADE* (see page 34), she points out that with only three months between the release of the FSA’s consultation paper and MiFID’s transposition deadline, the FSA are keen to initiate discussions now.

The paper highlights how Article 21 of the MiFID text,

## FSA seeks clarity on best execution

—FSA discussion paper addresses the challenges of implementing MiFID’s ‘best execution’ principals and offers insights into execution policies in practice.

“does not prescribe in detail how its requirements apply to the diverse circumstances in which client orders are executed.” It goes on to express that the new framework established by Article 21 is presenting challenges to the industry and that “firms are unaware what they should do in order to comply.” The discussion paper therefore attempts to provide clarity by presenting a draft interpretation of the regulation, and opening this up for industry comment.

Issues addressed include the potential difficulties in applying MiFID’s best execution in ‘intra-group relationships’. Here the paper makes it clear that when a chain of execution exists, it would be inappropriate to apply best execution in the same way to each link in the chain. “We do not see why portfolio managers should monitor all the steps that their execution intermediaries take on their behalf in executing their client orders,” say the FSA.



*Christina Sinclair, head of institutional business policy, FSA*

### Concrete steps

With regards to the review and monitoring of execution policies, the FSA have expanded on the MiFID text, with examples of how the regulation could be implemented in practice. This includes an examination of how regularly firms will be required to review their execution policies. Here the FSA propose that a portfolio manager with an extensive list of brokers may not need to review his execution policy just because another broker begins offering execution services, if the likely impact of the new provider is small.

The FSA also question whether or not firms can fulfil best execution requirements by only including one venue in their execution policy. “The test under MiFID, will be whether, in each of these circumstances, the firm will be able to obtain best possible results on a consistent basis with only one execution venue. MiFID does not rule this out,” say the FSA. ■