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GDPR:
PREPARE OR
FACE KNOCKOUT

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 DAYS HOURS MINUTES

With the revised Markets in Financial Instruments Directive (MiFID II) currently top of the regulatory agenda for most private banks and wealth managers, *PBI* research indicates the industry is underestimating the impact of the EU’s General Data Protection Regulation (GDPR) – with many businesses largely unprepared. *Saloni Sardana* explains

In just over four months, on 25 May 2018, GDPR comes into effect.

The law is set to give consumers and clients more control over their data, and will impact every client that is subject to data protection.

Guenther Dobrauz, partner and leader at PwC Legal Switzerland, says: “Segments of business which are directly client-related, such as wealth management, private banking and retail banking, are more impacted by the regulation than other segments.

“As a rule of thumb, wealth management, with its high level of individualised services and client interaction, will be most affected by the GDPR.”

GDPR matters to the wealth management industry as any non-compliance will result in hefty fines. Smaller breaches can lead to a fine of €10m (\$11.9m) or 2% of annual company turnover, whichever is greater; or €20m or 4% of annual turnover, whichever is greater, for more drastic breaches.

UNPREPARED

Dobrauz adds: “What we, by and large, see in the market is that a significant number of players are significantly behind the recommended time plan for GDPR implementation.

“The main reasons for this are that, firstly, they were all – and some indeed still are – quite busy with MiFID II, and GDPR often got overlooked as a consequence. Secondly, GDPR, its impact and complexity in most instances were underestimated.”



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“In terms of GDPR, there hasn't really been any noise made,” a senior London-based private banker tells *PBI* anonymously, due to the sensitivity of the topic.

GDPR will replace the previous 1995 Data Protection Directive in Europe, and in the UK it will replace the current Data Protection Act.

“At least within our private bank, we have not discussed [GDPR] with private bankers as of yet,” the banker says.

While GDPR impacts virtually every business, industries that revolve around client relationships could be more severely affected, due to the larger volumes of information being held about clients.

Under GDPR, a consumer or client can request that companies reveal any information held about them, with a maximum of 30 days to do so once requested. Any data breaches must be reported to impacted clients within 72 hours of knowledge of the event, and to the country's data protection regulator.

Geneva Management Group CEO, Dave Elzas, says: “I do not think we are completely prepared. We might have to make some changes internally. Either internally the way we store information, encrypted information or, going further, how we outsource some of the electronic communications that we use through third parties.”

THIRD-PARTY DATA

Elzas adds: “[Third-party data] currently falls under the responsibility of our operations and compliance [team]. We will have a look at this and we might decide to appoint an individual

just for this function going forward.”

“As you can imagine, GDPR is going to involve a whole range of disciplines – not only legal. It is not only compliance, but also IT and operations. It involves a number of executives at different levels, so we have to reassess where we are going to put that responsibility going forward.”

Dobrauz adds: “Many private banks co-operate with a significant number of third parties to deliver, market and enrich their services, which more often than not requires the sharing of information in the scope of GDPR. Hence, such models may be significantly impacted by the new regulation, and should be promptly evaluated.”

Elzas also reinforces the point that private banks often involve third-party providers, and this will be impacted by GDPR.

He says: “I think the biggest difficulty is not so much the way [smaller firms] deal directly with information, of clients, but with [third-party data] – for example marketing software that certain individuals might have downloaded and used personally for management of their client appointments outside of the corporate environment.

“It is on us to make sure that the data that we manage, and that we outsource, is all compliant.”

GDPR requires companies with more than 250 employees to document why client information is being collected and processed. Moreover, companies that have “regular and systematic monitoring of individuals” may need to appoint a specific data protection officer (DPO).

Elzas says his firm still has not decided whether to appoint a DPO, and is still in the process of reviewing its options.

CONSOLIDATION

Most of the providers polled by *PBI* say GDPR could increase consolidation in the wealth management industry.

Elzas says: “[GDPR] is just one more push



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to consolidation in the industry where smaller participants will find it too expensive, too complicated, to remain compliant. They may have to amalgamate, so businesses may have to quit their activities.”

He says a key reason that smaller wealth managers have been successful in managing clients’ wealth is “because they have been able to manage the information they have at hand quite closely”.

However, the more onerous requirements mean businesses might find it more difficult to manage information closely, and may have to expand their compliance departments – something that most mid-sized to larger wealth managers have typically already done. Elzas notes that some businesses that find the cost of compliance too high may prefer to wind down their operations completely, or be acquired by competitors.

Neil Moles, managing director of UK-based Progeny Group, which specialises in legal and wealth management services for private clients, says: “It is assumed that the financial services industry is better prepared than other sectors for GDPR.”

But he warns: “It will not be an easy transition for the behemoths of wealth management. Years of consolidation have led to these firms inheriting a mishmash of outdated back-office systems that are likely to creak worse under the rigour of GDPR.”

He argues while wealth managers have been involved in rapid consolidation over recent years, they have done little to merge the IT systems of the firms they are acquiring.

“GDPR should help this, as all data systems will have to be renewed,” he notes.

The London private banker says: “We are already seeing consolidation in the market. A lot of the fund houses that can not even comply with MiFID II are stopping. So I think it will be the same for smaller wealth managers and boutique investment managers.”

Dobrauz warns: “Smaller operations which do not have an experienced transformation team and deep pockets will struggle, and

further upwards consolidation will have to be expected.”

He adds: “[But] we also expect to see the emergence of platform solutions which boutiques and smaller houses may be able to use, and thus lower costs and complexity, but these usually only emerge with a delay.”

OPPORTUNITIES

Elzas says GDPR will also be another incentive for private bankers and asset managers to move towards platform-based solutions.

In October 2017, Geneva Management Group launched the Investment Management Solutions platform, based in Switzerland, as an alternative to traditional private banking, and to provide respite from regulatory strain. The platform provides all the infrastructure, compliance and regulatory requirements, facilitating a smooth client-onboarding process.



IT WILL NOT BE AN EASY TRANSITION FOR THE BEHEMOTHS OF WEALTH MANAGEMENT

Smaller asset managers and wealth managers may find it difficult to comply with recent and forthcoming regulations such as the Financial Services Act (FIDLEG) – the Swiss regulator’s response to MiFID II – and GDPR, hitting their profitability, Elzas warns. Fidleg was due to come into effect in 2017, but has now been delayed to 2019 at the earliest.



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Investment Management Solutions aims to solve the issue “of compliance, by providing the entire regulatory framework needed, and halving the profits earned with the bankers”.

Dobrauz explains: “A key side effect of GDPR implementation is that structuring data effectively will open up new opportunities for further industrialisation and digitalisation efforts.

“Finally, the reputation for security and integrity of established banks will remain a competitive advantage, difficult to match by the new competitors from the fintech industry. Going forward, those banks and wealth

managers will, in the long term, substantially benefit from GDPR as they reap the benefits of industrialisation and digitalisation in the banking industry, and match them with their already strong reputation for security and integrity.”

COMPLIANCE

The question is, then, will all firms manage to be compliant in time for GDPR to avoid exorbitant fines?

Elzas believes bigger firms that may not be able to comply by the deadline may be temporarily willing to pay fines in order to buy themselves more time.

“They might take a different view and say ‘the cost of organising is such that we will take a risk for a limited period of time and gradually try to improve our processes so that [we] will be compliant by a later date. In the meantime, we will run with the drift’.”

The London private banker takes a different

view: “Big banks have, of course, much deeper pockets and they will make sure that every bit is compliant. And the work has already started in the background in terms of the budget that has been allocated.

“Whether it is small or big, it is the reputational damage that it does to the firm. Just because it is a small €10m fine, big banks will not shrug it off. It is reputational damage; I do not think the amount matters.”

Debrauz also highlights that, at present, GDPR compliance is only handled in legal teams, as opposed to being a cross-functional initiative. “This is problematic due to the high impact of operations and the management of data processing as a daily business. Implementation of GDPR needs to be a joint initiative from all lines of service and all functions,” he warns.

The first step for wealth managers should be to divide their time and resources between dealing with MiFID II and GDPR. Then firms can decide whether to increase headcount and how to share the burden among all lines of business.

Love it or loathe it, GDPR will come into effect, presenting private banks and wealth managers the opportunity to optimise their data processes, win greater client trust, and give traditional private banking a chance to regain market share lost to new fintechs.

For those that invest properly in preparing for GDPR, certainly there will be more benefits than pain. Either way, the industry needs to make GDPR a priority. Better late than never. ■