

MEMO# 29065

June 5, 2015

ICI Global Letter on FCA Discussion Paper on Approach to Implementation of MiFID Conduct of Business and Organisational Requirements

[29065]

June 5, 2015

TO: ICI GLOBAL REGULATED FUNDS COMMITTEE No. 28-15
INTERNATIONAL COMMITTEE No. 30-15 RE: ICI GLOBAL LETTER ON FCA DISCUSSION PAPER ON APPROACH TO IMPLEMENTATION OF MIFID CONDUCT OF BUSINESS AND ORGANISATIONAL REQUIREMENTS

On May 26 we submitted a response to the U.K.'s Financial Conduct Authority's discussion paper on MiFID II's conduct of business and organisational requirements, in which the U.K. explores areas where it has policy choices to make with respect to how these items are implemented within the U.K. [\[1\]](#) The paper focus on retail clients; it does not cover implications for the wholesale markets. Is also does not address the use of dealing commissions to pay for research as this has been covered in other FCA papers.

Overview of Discussion Paper

The paper outlines the FCA's policy considerations on the following topics:

- applying MiFID II rules to insurance-based investment products and pensions;
- treatment of structured deposits;
- receipt of commissions and other benefits for discretionary investment managers
- professional client business – client categorization and treatment of local public authorities and municipalities; (asking whether should strengthen the requirements for local authorities to opt up to elective professional clients; this doesn't appear to be a UCITS/fund issue, or is it?)
- adviser independence;
- applying MiFID's remuneration requirements for sales staff and advisers to non-MiFID firms;
- recording of telephone conversations and electronic communications;
- costs and charges disclosures;
- MiFID's revised inducement standards; and

- complex and non-complex products and application of the appropriateness test.

ICI Global Comments

In our response, we make the following key points:

- In principle, a consistent regulatory regime should be maintained among MiFID II investments, which include collective investment schemes, and insurance-based investment and pension products.
- The FCA should not ban rebating of third party payments altogether by discretionary investment management (DIM) firms to clients and should instead adopt rules for DIM firms that are not more restrictive than the provisions in MiFID II.
- More specifically with respect to inducements, a consistent regulatory regime should be maintained between MiFID II investments and insurance-based investment and pension products because such products compete with one another and are substitutable with, in some cases, MiFID investment products.

Eva M. Mykolenko
Associate Chief Counsel - Securities Regulation

[Attachment](#)

endnotes

[1] The paper is available at
<http://www.fca.org.uk/your-fca/documents/discussion-papers/dp15-03>.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.