

<b>Committee:</b> Pensions Committee	<b>Dated:</b> 27 September 2022
<b>Subject:</b> London Collective Investment Vehicle (London CIV) and Markets in Financial Instruments Directive II (MiFID II)	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	<b>All</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>No</b>
<b>If so, how much?</b>	<b>N/A</b>
<b>What is the source of Funding?</b>	<b>N/A</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>N/A</b>
<b>Report of:</b> The Chamberlain	<b>For Decision</b>
<b>Report author:</b> Amanda Luk – Chamberlain's Department	

### Summary

In January 2018, the Markets in Financial Instruments Directive II came into effect, applying to all local authorities both as administering authorities for the Pension Fund and separately for their treasury management function.

The London CIV can only offer its services to professional clients and upon MiFID II implementation all Client Funds (including ourselves) were re-categorised as retail investors by the regulation, therefore an assessment was undertaken in 2018 to demonstrate that City of London (CoL) were deemed a professional client.

Following the 2022 local elections and in the case of the City of London, the inauguration of a new Pensions Committee, the London CIV are asking their clients, including the City of London, to update and resubmit their professional client assessment in order to maintain professional investor status.

### Recommendation(s)

Members are asked to:

- i) Note the requirement to update and resubmit its application to maintain elected professional client status in order to ensure it can continue to implement an effective investment strategy.
- ii) Agree to delegate authority to the Chamberlain to complete and submit the application to the London CIV.

## **Main Report**

### **Background**

1. In January 2018, MiFID II was introduced. This applied to all Local authorities who had to be classified as 'retail clients' unless they chose to opt up to elective professional client status.
2. The London CIV can only offer its services to professional clients and upon MiFID II implementation all Client Funds (including ourselves) were re-categorised as retail investors by the regulation, therefore an assessment was undertaken in 2018 to demonstrate that CoL were professional investors.
3. Following the local elections and for the City of London, the inauguration of a new Pensions Committee, the London CIV have asked their clients, including the City of London to resubmit their professional client assessment in order to maintain professional investor status.
4. The opt-up process includes both a qualitative and quantitative test that will be assessed by the individual institutions and the criteria will be applied separately to local authorities as pension fund administrators. The decision to opt up an authority lies solely with the institution to whom the application is made and it may, at its discretion request alternative/further information in support of an application.

### **Election for maintaining professional client status**

5. MiFID II allows for retail clients which meet certain conditions to elect to be treated as professional clients (to "opt up"). There are two tests which must be met by the client when being reassessed by the financial institution – the quantitative and the qualitative test.
6. The opt up test recognises the status of LGPS administering authorities as providing a "pass" for the quantitative test while the qualitative test is performed on the authority as a collective rather than an individual.
7. When MiFiD II was first introduced, the Scheme Advisory Board (SAB) and the Local Government Association (LGA) worked with industry representative bodies including the Investment Association, the British Venture Capital Association (BVCA) and others to develop a standard opt up process with letter and information templates for the LGPS. This enabled a consistent approach to assessment and prevented authorities from having to submit a variety of information in different formats. The letter and information templates are attached as Appendices 1 and 2 for information.
8. Authorities are not required to annually resubmit their application to maintain professional client status. However, they will be required to regularly review the information provided in the opt up process and notify all financial institutions of any changes in circumstances which could affect their status, for example, if the membership of the Board changed significantly (50% or more) resulting in a loss of experience, or if the relationship with the authority's investment advisor was terminated. As this is a new Committee, Officers anticipate that in due course, it will be necessary to "opt up" again with our other fund managers.
9. In order to ensure the Committee has a collective understanding of Pensions and that the training programme is robust there will be an annual training plan put in place. This will incorporate the CIPFA knowledge and skills framework for LGPS Committee Members and Officers and "Annex A – Part 1" of this Framework sets

out an overview of the general knowledge that Committee members should have and is attached Appendix 3. In addition, all Members of the Pensions Committee are expected to register for the Pensions Regulator (tPR) online training and complete the modules in respect of public sector pension schemes within 12 months of joining the Committee.

## **Conclusion**

10. Following the 2022 local elections the London CIV are asking their clients, including the City of London, to update and resubmit their professional client assessment in order to maintain professional investor status. Members are asked to delegate authority to the Chamberlain to complete and submit the application to the London CIV.

## **Appendices**

- Appendix 1 – Letter requesting categorisation as an elective professional client template
- Appendix 2 – Elective Professional Client Status Assessment template
- Appendix 3– CIPFA Skills and Knowledge Framework

### **Kate Limna**

Corporate Treasurer  
Chamberlains Department  
T: 020 7332 3952  
E: [kate.limna@cityoflondon.gov.uk](mailto:kate.limna@cityoflondon.gov.uk)

### **Amanda Luk**

Senior Accountant – Pensions  
Chamberlains Department  
T: 020 7332 1372  
E: [Amanda.luk@cityoflondon.gov.uk](mailto:Amanda.luk@cityoflondon.gov.uk)