

# Pensions Committee

22 March 2017

<b>Report title</b>	MiFID II Adoption	
<b>Originating service</b>	Pension services	
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## Recommendations for noting:

1. The Committee is asked to note the following:
  - New legislation will be effective from January 2018 and (without action) this will change the Fund's current status from Professional to Retail;
  - There is an opt up process which will enable the Fund to become an Elected Professional client in order to mitigate the impact on the universe of funds which the Fund can invest in and avoid potential increases in fees;
  - The Fund responded to the FCA consultation on implementation, along with the SAB and other funds, to request easements to the opt-up process and clarification of how the criteria will apply in practice;
  - We have no concerns on the Fund's ability to opt-up and this should be in place by the end of 2017.

## 1.0 Purpose

- 1.1. To update Committee on the FCA's implementation of an EU directive which could impact on implementation of the Fund's investment strategy.

## 2.0 Background

- 2.1 The Markets in Financial Instruments Directive (MiFID II) is the EU Legislation that regulates firms who provide services to clients linked to 'financial instruments' (shares, bonds, units in collective investment schemes and derivatives) and the venues where those instruments are traded.
- 2.2 The key element to the new legislation is the classification of clients (including Pension funds) as being Retail or Professional. The proposed rules will re-classify all LGPS Pension Funds as Retail clients in a change from their current status as Professional client. This will put restrictions on the investments that LGPS pension funds can make in the future and could potential impact the fee rates funds are charged. To ensure that funds can continue investing in these assets, the Fund can "opt up" to be an Elected Professional client, if it meets the following criteria: -
  - a. Employs individuals with suitable expertise, experience and knowledge of the investments;
  - b. Meets 2 of the following 3 criteria:-
    - An average of 10 transactions per quarter (over the last 4 quarters)
    - Manages assets of value in excess of EUR 500,000
    - Employs individuals with more than a years' experience in financial services

## 3.0 Fund action and response

- 3.1 In our response to the consultation, along with our LGPS partners, we have asked that the criteria for opt up be eased for LGPS funds and requested making the criteria dependent on the organisation rather than the individual. We hope that the consultation will ease the process of opting up but the Fund needs to ensure that when the rules are set that they are opted up to Professional status.
- 3.2 Currently West Midlands Pension Fund meets the requirements for opt up (through internal management) though the Fund and the partner funds in LGPS Central, post pooling in April 2018, might struggle to meet these criteria on a stand-alone basis. This could restrict LGPS Central from investing in some assets on the Funds behalf post 2018.
- 3.2 If the authorities and LGPS fail to reach a compromise allowing LGPS funds to opt up to Professional status then Funds may need to hire more investment staff in-house to ensure opt up. Alternatively, LGPS Central could consider a different share structure which allows "retail" investors to invest in alternative assets.
- 3.4 MIFID II also requires investment managers to be fully transparent on costs, deal reporting and best execution. This requires the separation of research costs from trade execution. The Fund is, in any event as part of preparing for pooling, planning to unbundle research from execution this year and is also looking at providers of Straight Through Processing

(STP) to ensure the Fund can meet the reporting requirements. The Fund, together with pooling partners, are currently drafting research and dealing policies for WMPF and LGPS central to be MIFID II compliant.

- 3.5 Officers will ensure that the Fund is compliant with MIFID II by the end of the year and, subject to response to the consultation and opt-up criteria in particular, are aiming to ensure that the Fund is classified as Professional. We have conducted a survey of our external managers plan to meet MiFID II and are starting work to ensure our internal arrangements will be compliant. We will offer more detail on these plans and MIFID II at the Trustee London training event on the week of the 27<sup>th</sup> March.

#### **4.0 Financial implications**

- 4.1 Financial implications include the costs of meeting MiFID II transparency and reporting. If opt up could not be achieved MiFID II could also restrict WMPF's ability to make further investments into its current investment strategy and may also impact on fee rates.

#### **5.0 Legal implications**

- 5.1 This report has no legal implications.

#### **6.0 Equalities implications**

- 6.1 This report has no equalities implications.

#### **7.0 Environmental implications**

- 7.1 This report has no environmental implications.

#### **8.0 Human resources implications**

- 8.1 This report has no human resource implications.

#### **9.0 Corporate landlord implications**

- 9.1 This report has no corporate landlord implications.