

Agenda Item	9
Report No	PEN/11/17

HIGHLAND COUNCIL

Committee: Pensions Committee

Date: 31 August 2017

Report Title: Implementation of the “Markets in Financial Instruments Directive” (MiFID II)

Report By: Director of Finance

1. Purpose/Executive Summary

- 1.1 This report outlines the impact of the implementation of the Markets in Financial Instrument Directive 2014/65 (“MiFID II”) and in particular the risk to the Pension Fund of becoming a retail client on 3rd January 2018.

2. Recommendations

- 2.1 The Pension Committee

Notes the potential impact on investment strategy of becoming a retail client with effect from 3rd January 2018.

Agrees to the immediate commencement of applications for elected professional client status with all relevant institutions in order to ensure it can continue to implement an effective investment strategy.

3. Background

- 3.1 MiFID was applied in the UK from November 2007, but is now being revised (to MiFID II) to improve the functioning of financial markets in light of the financial crisis and to strengthen investor protection. Under the current UK regime, local authorities are automatically categorised as 'per se professional' clients in respect of non- MiFID scope business and are categorised as 'per se professional' clients for MiFID scope business if they satisfy the MiFID Large Undertakings test.
- 3.2 Following the introduction of MiFID II from 3 January 2018, firms in the financial markets will no longer be able to categorise a local authority as a 'per se professional client for MiFID or non-MiFID scope business.

4. Potential Impact

- 4.1 A move to retail client status would mean that all financial services firms like banks, brokers, advisers and fund managers will have to treat local authorities the same way they do non-professional individuals and small businesses.
- 4.2 Such protections would mean Pension Funds are no longer able to access the wide range of assets needed to implement an effective, diversified investment strategy. Retail status would significantly restrict the range of financial institutions and instruments available to the Fund.
- 4.3 In many cases managers will no longer be able to even discuss certain asset classes and vehicles with the authority as a retail client.

5. Election for professional client status

- 5.1 However MiFID II allows for retail clients which meet certain conditions to elect to be treated as professional clients. When being assessed by the financial institution: the client must meet both quantitative and qualitative tests. The Local Government Pension Scheme Advisory Board (SAB) has successfully lobbied the FCA to ensure these tests are appropriate to local authorities.
- 5.2 The election to professional status must be completed with all financial institutions prior to the change of status on 3rd January 2018.

6. Next steps

- 6.1 In order to continue to effectively implement the Fund's investment strategy after 3rd January 2018, applications for election to be treated as a professional client should be submitted to all financial institutions working with the Fund. This process should start as soon as possible to ensure completion in good time.

7. Implications

- 7.1 The resource and risk implications are covered in the above report. There are no Legal; Community (Equality, Poverty and Rural); Climate Change/Carbon Clever and Gaelic implications relating to this report.

Designation:	Director of Finance
Date:	22 August 2017
Author:	Margaret Grigor, Finance Manager