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### **Response to Consultation CP16/29 – Markets in Financial Instruments Directive II Implementation – Consultation Paper III**

The CFA Society of the UK (CFA UK) represents about 12,000 investment professionals working across the UK investment sector primarily as portfolio managers and buy-side analysts among others. Our mission is to educate investment professionals, to promote high ethical and professional standards and to explain the profession to our stakeholders.

For advocacy purposes, our members are represented by several committees including the Market Integrity and Professionalism Committee and the Examinations and Education Committee. Given that Consultation Paper 16/29 deals with both market integrity and competency matters these two committees have provided a joint response on behalf of CFA UK members.

We believe that it is sensible to transpose the MiFID II regulations into the FCA handbook with limited amendments. We note that the key differences between the MiFID II regime and the proposed FCA regulations relate to areas where the FCA's rules on retail protection appear more advanced than those in MiFID II – specifically in relation to inducements and investment research. We limit our response primarily to these areas (where we provide general comments rather than responding to individual questions directly), but also provide a specific response to Question 53 on Knowledge & Competence.

In general, we would urge the FCA to minimise the differences between the MiFID II regime and the proposed FCA regulations as geographical inconsistencies in regulation can create confusion and arbitrage opportunities, potentially leading to greater costs being passed on to end clients/consumers without any additional benefit.

We would also urge the FCA to be mindful of potential negative side effects that might arise as a result of changing regulation. For example, it may be more difficult for smaller asset managers to compete with larger firms that have extensive in house research, particularly as access to high quality sell-side research may be negatively impacted by research unbundling. This could lead to a significant consolidation of the asset management industry and potentially lower competitive intensity.



### Inducements

MiFID II appropriately extends the existing regime around inducements such that it will no longer be possible to pay or receive monetary and non-monetary benefits from third parties (beyond minor non-monetary benefits and benefits that will not impair the ability to act in clients' interests). CFA UK supports the FCA's proposal to apply the inducement rules to professional as well as retail clients. We also support the proposal to extend the ban on inducements by prohibiting the acceptance and rebating of commissions and by applying the rules to the provision of advice and not solely to the provision of specific investment recommendations. CFA UK also backs the FCA's proposal to apply the MiFID II research and inducement rules to MiFID exempt firms managing collective investments. It makes sense for investment managers carrying out equivalent activities to be subject to the same standards.

### Investment research

With regard to investment research, we value the additional guidance given in the FCA's paper in relation to the operation of RPAs and research budgets and, as mentioned above, welcome the application of the research and inducements rules to all UK authorised firms carrying out the management of collective investment schemes. It is useful to know that research charges can be collected alongside transaction execution, that research budgets can be set across multiple funds or accounts (so long as they have similar investment strategies and objectives and separate RPAs are not required for each client). As we have stated in prior responses, we welcome the removal of the link between trading volumes and research costs and the transparency of research costs to the end investor.

### **Questions on Knowledge & competence requirements**

*Q53: Do you agree with our approach to implementing the guidelines in TC and SYSC 5? If not, please give reasons why.*

CFA UK agrees with the approach to the implementation of the MiFID II Knowledge & Competence requirements and supports their aim of improving investor protection. CFA UK agrees with the approach as it relates to their proportional application, the level and intensity of knowledge and competence, the requirement for both qualifications and experience, and the flexibility in how they are achieved. Within the UK market this should serve to enhance services relating to the provision of information and advice to professional clients, and the provision of information to retail clients.

CFA UK agrees with the proposed maximum time period of four years during which employees need to acquire knowledge and competence, and the minimum period of six months for employees to be considered eligible to have acquired appropriate experience.

The training and competence of Retail Investment Advisers is clearly defined by the FCA Handbook. The proposed amendments to TC and SYSC will leave significant flexibility to firms to determine the appropriate training activities necessary for those involved in providing information and advice to professional clients, and providing information to retail clients. CFA UK believes inclusion into the FCA Handbook of further examples and indicators of best practice, beyond the existing rules and guidance, would help firms in successfully implementing the requirements



We trust that these comments are useful and would be pleased to discuss them in person.

Yours sincerely,



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#### About CFA UK and CFA Institute

The CFA Society of the UK (CFA UK) represents the interests of more than 10,000 leading members of the UK investment profession. The society, which was founded in 1955, is one of the largest member societies of CFA Institute and is committed to leading the development of the investment profession through the promotion of the highest ethical standards and through the provision of continuing education, advocacy, information and career support on behalf of its members. Most CFA UK members have earned the Chartered Financial Analyst® (CFA®) designation, or are candidates registered in CFA Institute's CFA Program. Both members and candidates attest to adhere to CFA Institute's Code of Ethics and Standards of Professional Conduct.

CFA Institute is the global association for investment professionals. It administers the CFA and CIPM curriculum and exam programs worldwide; publishes research; conducts professional development programs; and sets voluntary, ethics-based professional and performance-reporting standards for the investment industry. CFA Institute has more than 100,000 members in 140 countries, of which more than 90,000 hold the Chartered Financial Analyst (CFA) designation.