

By E-mail
CESR
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By Email

3 August 2010

Your ref: CESR/10-831

Dear Sir

Consultation Paper – MiFID Review – Client Categorisation

Butlers is grateful for the opportunity to respond to the CESR Client Classification consultation paper. Butlers is very supportive of measures that protect the integrity of markets, investors and tax-payers.

Butlers (a Division of ICAP Securities Limited) provides treasury management support to over 130 UK local authorities and other public sector bodies regulated in a similar manner, providing debt, investment and technical support. Although our response is primarily based on our experience of local government debt and cash management in a single Member State, we are of the view that the issues are of relevance to the entire EU.

Our primary concern relates to Question 5 of the Consultation – Public Debt Bodies. We are sensitive to the possibility that any change to the client classification may indirectly lead to a reduced range of products and counterparties being available to them, and accordingly increase local government risks and reduce efficiencies.

Scope of Debt and Investment Activity in UK Local Authorities

The working practices for UK local authorities are regulated through domestic legislation, associated regulations and professional codes. Local government Treasury operations are predominantly restricted to simple financial instruments, such as bank deposits and money market products. Local government agencies are not generally permitted to use more complicated instruments, such as derivatives. The majority of UK local authorities manage their own debt and investment portfolios, to ensure sustainable public services are maintained. It is assisting in the efficient management of debt and cash that Butlers' main service resides. The remaining authorities continue to have the flexibility to borrow if required.

Whilst the size of the treasury function may vary between authorities, the treasury operations taking place tend to be relatively homogenous. All local authorities will have investments in some form, with a large percentage of local authorities also managing a debt portfolio. The size of debt and investment portfolios managed by local authorities at 31 March 2010 was as follows:

- o Debt - £66.8bn¹
- o Investments - £25.6bn¹

¹ Source – Office for National Statistics

Local authorities traditionally manage their investment portfolios through the London money markets, dealing via brokers and in some instances direct with large financial institutions.

The debt portfolios are managed via the Public Works Loan Board (PWLb – part of the UK Debt Management Office) or direct with large financial institutions.

Current MIFID Classification

UK local authorities are currently deemed to be professional clients, and to have the necessary knowledge and experience both to operate in the financial instruments allowed under the relevant regulations and to assess their own risk.

The treatment of local authorities as professional allows the efficient management of both the debt and investment portfolios through the London money markets and direct with large financial institutions, with minimal risk.

Concerns

If local authorities experienced a change to their classification in respect of their routine treasury management and this change reduced their status (for example to retail), then access to the London money markets and large financial institutions is likely to be much more limited than at present. This would curtail the local authority's ability effectively to manage both their debt and investment portfolios. We have spoken to a number of fund managers on this issue and their response was that due to the increased protection the retail classification attracts, either the fees would be increased substantially, which would reduce dramatically the return available to them (in the current economic climate the returns could be zero), or products would not be made available.

This concern has already been expressed by the UK professional accounting body, the Chartered Institute of Public Finance and Accountancy (CIPFA). CIPFA's Treasury Management Bulletin (March 2010 - as attached), acknowledges that local authorities can opt from being a professional client to a retail client and receive greater protection for one or more particular services. It does however warn that this may result either in increased product fees or a reduced number of counterparties and brokers willing to deal with them.

We ask that when considering the proposals for the client classification relating to UK local authorities, CESR provide sufficient flexibility for local authorities to continue using the limited range of products and services to which they currently have access, on what is clearly the most effective basis.

If you would like to discuss this submission please contact Richard Dunlop (richard.dunlop@icap.com, 020 7000 5905) or Karl Adams (karl.adams@icap.com, 020 7000 5907).

Kind regards

Yours faithfully

Richard Dunlop

Butlers (a Division of ICAP Securities Ltd)