MiFID Coordination
Markets Policy and International Division
Financial Conduct Authority
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London
E14 5HS

By email: cp16-29@fca.org.uk

4 January 2016

Dear Sirs,

BVCA response to CP16/29 - Markets in Financial Instruments Directive II Implementation – Consultation Paper III

About the BVCA and its members

1. The British Private Equity and Venture Capital Association ("BVCA") is the industry body and public policy advocate for the private equity and venture capital industry in the UK. With a membership of over 600 firms, the BVCA represents the vast majority of all UK based private equity and venture capital firms, as well as their professional advisers. Our members have invested over £27 billion in nearly 3,900 UK-based companies over the last five years. Companies backed by private equity and venture capital in the UK employ around 385,000 people and 84% of UK investments in 2015 were directed at small and medium-sized businesses.

2. Our member firms are structured in a number of different ways, but fall broadly into the following regulatory categories:

    a. Exempt-CAD Adviser/Arranger Firms: These firms typically act as non-discretionary advisors or sub-advisors to fund managers located in other jurisdictions (e.g. the United States or the Channel Islands). Their permissions are limited to: (i) the giving of investment advice; and (ii) arranging transactions/making arrangements with a view to transactions in investments (in MiFID terms, reception and transmission of orders, usually in the wider sense of 'bringing together two or more investors' as described in Recital 20 of MiFID). As MiFID investment firms, these firms are directly affected by the implementation of MiFID II.

    b. Full-Scope AIFMs: These firms typically act as the managers of unauthorised collective investment schemes. The funds they manage are most commonly structured as limited partnerships. Some, but not all, of these firms will have the 'top-up' permissions envisaged by Article 6(4) of AIFMD. These firms are affected by the implementation of MiFID II: (i) if and to the extent the FCA decides to extend MiFID II requirements to AIFMs; and (ii) for those firms with top-up permissions, to the extent MiFID II requirements apply to those additional activities.

c. Sub-Threshold AIFMs and Residual CIS Operators: These smaller firms also typically act as the managers of limited partnership funds. These firms are affected by the implementation of MiFID II if and to the extent the FCA decides to extend MiFID II requirements to AIFMs, and may be disproportionately affected by new requirements owing to their smaller size and more limited resources. A number of these firms are also authorised as exempt-CAD adviser/arranger firms to cover some aspects of their business.

d. IFPRU/BIPRU Firms: A small number of our members are licensed as IFPRU/BIPRU firms. The reasons for this vary from firm to firm. These firms typically carry on a wider range of investment activities and will be substantially affected by the implementation of MiFID II.

Our approach to this response

3. We have limited our response to those issues that specifically affect private equity and venture capital firms. Given this, we have responded to selected questions only. Many of the issues that affect asset managers more generally will also affect private equity firms to a greater or lesser extent, but those of our members who are affected will typically feed back on these issues either through other industry associations or directly to the FCA.

4. In relation to those firms licensed as AIFMs, we would reiterate the point made in our earlier letter of 10 November 2016 that any extension of MiFID II requirements to AIFMs will have a material impact, and impose significant extra costs, on these firms. In our view, any such step should be undertaken only to address very clear and specific policy concerns and after appropriate cost-benefit analysis is completed; we do not consider that consistency of approach across firms is, in itself, sufficient justification for any such "gold-plating" of the Directive's requirements.

Chapter 2: Inducements, including adviser charging

5. **Q4: Do you consider that the ban on receiving and rebating monetary benefits to clients should also apply to professional clients? If so, please explain why and provide cost-benefit data. If not, please give reasons why.**

   We see no reason to extend the ban on receiving and rebating monetary benefits to clients to professional clients. In our experience, professional clients are both used to and comfortable with negotiating fee and expense arrangements and, indeed, expect to be able to do so. Flexibility in approach is therefore valued by both firms and clients. Removing this flexibility could be particularly unhelpful where a firm's clients are affiliated entities within the same corporate group; we do not see that a ban on rebating would be 'more practical' for firms in this context. Similarly where clients have agreed with a manager that the manager may retain certain fees to offset investment management fees, this can result in administrative savings compared with the need for automatic rebates. Institutional clients should be free to agree such arrangements with investment managers.

Chapter 3: Inducements and research

6. **Q10: Do you agree with our approach to extending the research and inducements requirements to firms carrying out collective portfolio management activity? If not, please give reasons why.**

   As a general principle, we do not see any basis for extending MiFID II requirements to AIFMs. AIFMs are already subject to the inducements rules contained in Article 24 of the AIFMD Level 2 regulation. Any change to, or extension of, that regime should be through modification of the AIFMD regime rather than through gold-plating of MiFID II requirements at national level. We would also challenge the assumption that underpins several proposals in the consultation paper that firms typically perform both MiFID investment management and non-MiFID collective portfolio management, and so a one-size-fits-all approach is easier, more practical or simply expected by firms. For the majority of our investment manager members, their only business is managing private equity or venture capital funds; they do not have a MiFID licence nor otherwise have to comply with MiFID requirements in practice. For these firms, a general levelling-up to MiFID II standards is not a small, incremental change but potentially a requirement to accelerate from a standing start.

   More specifically, the current rules on dealing commission in COBS 11.6 are of very limited application in a private equity context. Private equity transactions are typically sales/purchases of shares in and/or debt instruments issued by private companies that are bilaterally negotiated between buyer and seller, often over an extended period of time. In this situation, there is no broker involved or dealing commission paid. We do not believe that such transactions would be subject to the proposed COBS 18 Annex 1.

   Likewise, we believe the proposed COBS 18.5.3B R/COBS 18.5A.7 R makes clear that COBS 18 Annex 1 does not apply in respect of portfolio management activities that are not directly related to order execution. This is important for private equity firms, who may receive fees that are related to their wider portfolio management activities, but are wholly unrelated to order execution activities in the generally understood sense.

Chapter 4: Client categorisation

7. **Q16: Do you agree with our approach to revise the quantitative thresholds as part of the opt-up criteria for local authorities by introducing a mandatory portfolio size requirement of £15m? If not, what do you believe is the appropriate minimum portfolio size requirement, and why?**

   This issue is highly relevant to private equity firms as local authority pension funds are significant investors into private equity funds. It is important for the private equity industry to be able to continue to access this source of capital, and for local authority pension funds to be able to access alternative investments such as private equity funds as part of an appropriately diversified portfolio. Private equity firms do not typically engage with local authorities acting as treasury managers.

   In policy terms it seems to us that there is a fairly straightforward question for the UK: should LGPS administrators be treated as professional clients? We believe that the answer is clearly

yes. This reflects the LGPS's position as a major institutional investor and the fact that LGPS administrators are subject to a significant amount of legislation regarding governance of their investments. If the answer is yes, then the FCA should ensure as far as possible that the post-MiFID II regime is designed in a way which gives LGPS administrators access to the maximum range of managers (e.g. so that managers are able to market their services to LGPS administrators) and avoids unnecessary administrative duplication (e.g. multiple managers needing to go through opt up processes with LGPS administrators).

We understand these concerns to be shared by the Local Government Association and strongly endorse the LGA's position that the FCA's proposals could result in UK local authority pension funds being shut out of a wide range of investment opportunities. We would urge the FCA to continue to engage with the LGA on this issue in order to reach a workable solution that does not disadvantage local authority pension funds and those employees set to benefit from those funds. Some of our members have already received queries from UK local authority pension funds who are concerned about the implications for their existing investments in our members' funds and for their ability to make further investments in our members' funds.

We understand the policy rationale for increasing the portfolio size requirement to £15,000,000 and have no particular objection to this. It would, however, be helpful if the FCA could confirm that, where local authorities acting as pension fund administrators have collaborated with the specific intention of creating a larger pool of investable assets, this test can be applied to the combined pool rather than to the underlying portfolios of individual local authority participants. (This would be relevant to our members only to the extent the client continues to be the local authority; in a number of these structures, the client/investor from our members' perspective would be a form of collective investment scheme in which local authority pension funds participate and to which we understand the usual client categorisation tests would apply.)

We are concerned about the other proposed two limbs of the quantitative test, at least one of which must be satisfied for the local authority pension fund to be opted-up to professional client status.

In a private equity context, limb (b) (carrying out transactions on the relevant market at an average frequency of 10 per quarter over the previous four quarters) is an impossibly high hurdle for prospective investors to satisfy. This limb is designed for retail investors looking to trade actively in liquid markets. It would be exceptionally unusual even for very large institutional investors with active private equity investment programmes to invest in private equity funds at a rate of 40 a year. As things stand, this limb must therefore be discounted for all practical purposes.

Limb (c) also creates difficulties, as it is not clear how it can readily be applied to local authorities acting as pension fund administrators, where decisions may be made by an investment committee, or where individuals may have limited personal expertise but rely heavily on professional advice or support in their investment decision-making. It may be possible for firms to get comfortable on particular fact patterns, but it is unsatisfactory for the position to be so uncertain. If firms are conservative on this point, it could result in many local authority pension funds being classified as "retail". This would exclude them from the

opportunity to invest in private equity as well as many other asset classes, and restrict their use of product and managers in traditional asset classes.

We have similar concerns in relation to the application of the qualitative test more generally. Given the collective and professionally advised nature of local authority decision making, we do not think it is appropriate, or generally possible, to require firms to identify one specific individual at a local authority pension fund who has the requisite knowledge, experience and expertise to make any particular investment decision. We understand that the LGA has articulated these concerns more fully in its response to this consultation.

We think it would be strongly preferable for the FCA to use its discretion to adopt alternative criteria that would be more readily applicable to local authorities when acting as pension fund administrators. Possible alternative criteria for your consideration could include:

- For UK local authorities, simply that the local authority is acting as an administering authority under the Local Government Pension Scheme Regulations 2013.

- Again for UK local authorities, that:
  (a) the local authority's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds £15,000,000; and
  (b) the local authority is acting as an administering authority under the Local Government Pension Scheme Regulations 2013.

- For all local authorities (UK or otherwise), that:
  (a) the local authority's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds £15,000,000; and
  (b) the local authority has appropriate and recent prior experience of carrying out transactions on the relevant market or has taken professional advice from a person or firm with appropriate expertise and experience.

We also note that the FCA proposes, in paragraph 4.16 of the consultation paper, that when categorising non-UK local authorities, firms should defer to the status of the local authority as determined under the laws of the member state in which the local authority is established. This would, in practice, require firms to take advice from local counsel in order to understand the relevant local criteria and determine whether these are fulfilled, resulting in material additional complexity and cost. We think it would be strongly preferable for UK-regulated firms to be able to apply the FCA's opt-up criteria to all local authorities, wherever in the EEA they are established, if the FCA has the ability to permit this. As identified above, the alternative criteria for categorisation of non-UK local authorities (whether EEA or non-EEA) could not be based on being subject to the Local Government Pension Scheme Regulations 2013, but we see no reason why the FCA could not adopt one targeted optional set of criteria for UK local authorities together with another broader set which could be used for any local authorities (globally).

8. **Q17: Do you agree with our approach to extend these proposals to non-MiFID scope business? If not, please give reasons why.**

We do not agree with this proposal. If the UK takes the decision that LGPS administrators should be professional clients, it would be preferable for them to be "per se" professional clients for non-MiFID business.

The ability to categorise local authorities as professional clients when acting as pension fund administrators is important to private equity firms in three particular contexts, which include some non-MiFID scope business:

- The ability to market using the AIFMD marketing passport is conditional on the investor being an investor which is considered to be a professional client or may, on request, be treated as a professional client within the meaning of Annex II to MiFID (Article 4(1)(ag) of AIFMD).

- A communication to professional clients is exempt from the restriction on the promotion of units in an unregulated collective investment scheme in section 238 of FSMA and the restriction on the promotion of non-mainstream pooled investments in COBS 4.12.3R (such communications being non-MiFID business as noted in Note 4 to the table in COBS 4.12.4R).

- Some firms will provide portfolio management services directly to local authorities, either as a MiFID service or under AIFMD top-up permissions. Many of these firms will not have permission to deal with retail clients, and would be very unlikely to extend their permissions solely in order to service a limited number of local authority pension fund mandates.

It is therefore essential that the opt-up regime for local authority pension funds is workable and the issues raised in paragraph 7 above are resolved. If it is not practically possible to categorise local authority pension fund administrators as professional clients, they would be very largely excluded from investing in private equity (subject to own initiative exemptions etc.).

In the context of financial promotions, we also think there is a serious risk that the procedural requirements involved in opting-up a local authority pension fund administrator to professional client status will inhibit firms from approaching them, as it would be necessary for the firm to go through the opt-up process before providing any information about their products. As financial promotions are non-MiFID business, we would suggest that the FCA uses its discretion in this area to treat a local authority that is acting as an administering authority under the Local Government Pension Scheme Regulations 2013 as a per se professional client, at least for financial promotion purposes if not for other non-MiFID business.

Chapter 5: Disclosure requirements

9. We appreciate that the disclosure and reporting requirements under MiFID II are substantially dictated by the Level 1 and Level 2 legislation, and recognise that the FCA has very limited

discretion on how to implement these. We would note, however, that complying with these new requirements will require substantial additional resource from firms. Where services are provided on an intra-group basis (as is often the case in a private equity context), the benefit, if any, to external clients of compliance with these additional requirements is unsubstantiated.

Chapter 6: Independence

10. Private equity firms would very rarely, if ever, hold themselves out as providing independent investment advice, so we make no comment on this chapter.

Chapter 9: Dealing and managing - Best execution

11. **Q33: Do you agree with our proposed approach to implementing the MiFID II requirements on best execution? If not, how could we amend our proposed approach?**

Q35: Do you agree with our proposals for non-MiFID business? If not, what alternative approach could we consider?

We note the FCA's position that MiFID II does not materially change the current best execution regime; rather, it increases the compliance threshold and details the content of specific disclosures to be made to clients with a view to facilitating better scrutiny by clients of order execution arrangements.

The MiFID II best execution requirements are expressed to apply to firms when executing orders. There is a corresponding duty on portfolio managers and firms that receive and transmit orders to act in clients' best interests when placing orders for execution. From a private equity perspective, it is necessary to consider the application of these requirements to exempt-CAD adviser/arranger firms, and also to those firms undertaking segregated portfolio management activities.

In respect of our AIFM members, we note that:

- the FCA proposes to level-up best execution rules to MiFID II standards for small authorised UK AIFMs and operators of residual CISs, subject to the current concession in COBS 18.5.4R (disapplication for firms dealing with professional clients only);

- the FCA is still considering whether to supplement the best execution obligations for full-scope UK AIFMs with enhancements imposed by MiFID II, but at a minimum the FCA proposes to require UK AIFMs to comply with the MiFID II RTS 28 reporting requirements.

In a private equity context, we would draw your attention to the following excerpts from the AIFMD Level 2 regulation (our emphasis):

Recitals

(45) Investors in AIFs should benefit from protection similar to that of AIFM clients to whom AIFMs provide the service of individual portfolio management, as in such a case they have to comply with the best execution rules laid down in [MiFID]. ***However, the differences between the various types of assets in which AIFs are invested should be taken into account, since best execution is not relevant, for instance, when the AIFM invests in real estate or partnership interests and the investment is made after extensive negotiations on the terms of the agreement.*** *Where there is no choice of different execution venues, the AIFM should be able to demonstrate to the competent authorities and auditors that there is no choice of different execution venues.*

(46) For reasons of consistency with requirements applying to UCITS managers, rules on handling of orders and on aggregation and allocation of trading orders should apply to AIFMs when providing collective portfolio management. ***However, such rules should not apply where the investment in assets is made after extensive negotiations on the terms of the agreement, such as investment in real estate, partnership interests or non-listed companies as in such cases no order is executed.***

Article 27

1. AIFMs shall act in the best interests of the AIFs or the investors in the AIFs they manage when executing decisions to deal on behalf of the managed AIF in the context of the management of their portfolio.

2. Whenever AIFMs buy or sell financial instruments or other assets ***for which best execution is relevant****, and for the purposes of paragraph 1, they shall take all reasonable steps to obtain the best possible result for the AIFs they manage or the investors in these AIFs, [...]*

In reliance on the above statements, our AIFM member firms typically take the position that the AIFMD best execution obligations do not apply to standard private equity transactions, on the basis that best execution is not relevant in this context and no 'order', as such, is executed. We assume this basic position would not be affected by any extension of MiFID II best execution requirements to AIFMs. Indeed, the practical impossibility of presenting meaningful execution data for bilaterally negotiated transactions in shares and/or debt instruments of unlisted companies (where there can be no execution venue) supports, rather than undermines, the conclusion that best execution is not relevant in this context.

We note that private equity funds do sometimes acquire other assets, such as shares in listed companies or listed debt instruments, and assume that best execution obligations are relevant and applicable in that situation.

We would suggest that an analogous approach should apply to those private equity firms carrying on MiFID business when advising on or managing 'pure' private equity investments. MiFID itself does not address the point, but the policy position articulated in the AIFMD Level 2 regulation would appear to be equally applicable here.

As noted above, in a private equity context, exempt-CAD adviser/arranger firms are often receivers and transmitters of orders only in the sense of 'bringing together two or more investors' as described in Recital 20 of MiFID; the underlying fund and/or its manager will typically enter into investment documentation directly. In addition to the points made above regarding private equity transactions specifically, we would suggest that the 'best interests' regime under MiFID II applies only where an order is passed by the MiFID firm to another entity for execution; it is not applicable where a firm is engaged in reception and transmission of orders only in the extended Recital 20 sense.

We would be grateful for your views on the above points. We appreciate that this may be too narrow a point to address in the MiFID II policy statement and would be keen to discuss this point directly if that would be more appropriate.

For the avoidance of doubt, we agree that the current concession in COBS 18.5.4R is widely relied on and feel strongly that it should be retained.

Chapter 12: Other conduct issues

12. **Q49: Do you agree with our proposed approach to restructure and amend COBS 18.5 to make it clearer for firms carrying out CPM activity? If not, why not and what alternative approach you would propose?**

We agree the proposed restructuring of COBS 18.5 is helpful, as the existing provisions are hard to navigate. Please see paragraph 6 above for our comments on COBS 18.5 Annex 1.

Chapter 13: Product governance

13. **Q52: Do you agree with our proposal to apply the MiFID II product governance provisions as guidance for non-MiFID firms involved in the manufacture or distribution of MiFID products? If not, please give reasons why.**

We do not agree with the FCA's proposal to apply the MiFID II product governance provisions as guidance for non-MiFID firms involved in the manufacture or distribution of MiFID products. In relation to our members, we understand this proposal to mean that firms licensed as AIFMs, who establish and market private equity funds, would be required to comply with the product governance regime as these activities would constitute the manufacture and distribution of units in collective investment schemes (being MiFID financial instruments). The vast majority of private equity funds (excluding investment trusts and VCTs) are wholesale products that are marketed to institutional investors on a private placement basis. These products are sometimes made available to investors who are technically retail investors as categorised under MiFID, but these investors would usually be either ultra-high net worth individuals or individuals connected with the private equity firm itself (e.g. staff and their close family members, operating partners etc.). There are already significant regulatory protections to ensure that these products are not inappropriately distributed to retail consumers, notably the restriction on promotion of collective investment schemes in section 238 of FSMA and the regime for promotion of non-mainstream pooled investments in COBS 4.12. In light of this, we think it would be disproportionate to require our member firms also to comply with the MiFID II product governance regime; this would

create a significant additional compliance burden for firms with limited, if any, additional benefit in terms of investor protection. We also note that this would be gold-plating which would impose a higher burden on UK managed AIFs than AIFs managed in other EU jurisdictions.

Chapter 15: Recording of telephone conversations and electronic communications (taping)

14. **Q54: Do you agree with our proposed unified approach to implementing the MiFID II requirements on taping of telephone conversations and electronic communications? If not, please give reasons why.**

Q57: Do you agree with our approach to extend the MiFID II requirements to corporate finance business and the service of portfolio management and to remove the exemption for discretionary investment managers? If not, please give reasons why.

Many private equity firms are not currently subject to telephone taping requirements. The imposition of requirements on these firms will impose additional costs. We note that the FCA is seeking to go beyond the requirements of MiFID in relation to telephone taping. We would suggest that firms are given flexibility at least in respect of conversations which relate to unlisted instruments, which covers the majority of private equity investments.

We understand from the consultation paper that the FCA's policy rationale for extending the telephone taping regime is driven by two factors: (i) gathering evidence in the context of market abuse and related regulatory breaches; and (ii) advancing the FCA's consumer protection objective, particularly in relation to mis-selling complaints. We do not see that requiring the recording of telephone conversations, meetings and electronic communications in relation to 'pure' private equity transactions advances either policy objective given the nature of the financial instruments in question and the nature of the client (being typically either the fund itself or an affiliated fund manager), and consider that the cost of taping for our member firms would be disproportionate to any regulatory benefit that would result.

We believe the FCA has scope to offer some much needed flexibility on this point.

- The taping obligation in Article 16(7) of MiFID II applies only to conversations or communications relating to: (i) transactions concluded when dealing on own account; and (ii) the provision of client order services that relate to the reception, transmission and execution of client orders; it does not apply to portfolio managers when placing orders with other entities for execution. The obligation also (self-evidently) applies only to MiFID firms and not to AIFMs undertaking collective portfolio management activities. We think it would therefore be possible for the FCA to exempt portfolio managers and AIFMs from the taping obligation in respect of conversations relating to negotiated transactions in non-listed shares and/or debt instruments.

- As noted in paragraph 11 above, for exempt CAD adviser/arranger firms, we consider there is scope based on the recitals to the AIFMD Level 2 regulation to take the position that: (i) no order is executed in relation to this type of transaction, and hence that no 'client order services' as described in Article 16(7) of MiFID are being provided, or if they are being provided, they do not relate to the reception, transmission or execution of

client orders; and/or (ii) where the firm is only undertaking reception and transmission of orders in the extended Recital 20 sense, there are similarly no 'client order services' being provided. We think it would therefore also be possible to take the position that the FCA is not obliged by MiFID II to require exempt-CAD adviser/arrangers to comply with the telephone taping rules when arranging negotiated transactions in non-listed shares and/or debt instruments for the funds they advise.

If the FCA is not able to offer any flexibility in terms of general application of the rules, we would ask the FCA to take a proportionate approach to the conversations to be recorded.

In the context of a private equity transaction, it is still the case that communications relating to the potential transaction may take place over a long period of time and with a number of parties. Interpreted very broadly, the proposed requirement in SYSC 10A.1.6R for firms to take all reasonable steps to record telephone conversations, and keep a copy of electronic communications, that 'relate to' the regulated activities referred to in SYSC 10A.1.1R could be construed as requiring firms to record all internal and external conversations or communications undertaken by the firm's investment professionals. We consider that such a requirement would be wholly disproportionate given the volume of data that would be generated and the cost to firms of storing and enabling searching of that data, and that this cannot be what is intended.

Many private equity advisor arranger firms have as their client an affiliate investment manager. This means for many private equity groups, the rules could require detailed records of internal meetings to be maintained to no real benefit. It would be helpful if the FCA could provide guidance that:

- at least in relation to unlisted securities, firms will not be required to record details of meetings, calls etc; and
- relevant communications are those which are intended to result in an order being transmitted or executed.

Private equity firms compete with industry trade buyers on transactions. We note that imposing these types of obligation on private equity firms, which are not imposed on industry buyers, results in an unlevel playing field.

A number of our members have been advised that there are significant data protection issues around taping under both domestic and international law (e.g. taping foreign counterparties, taping personal conversations of staff) that would need to be addressed and may not be straightforward to resolve. It also cannot be the intention that conversations subject to legal professional privilege should be subject to the taping requirement.

As a result of the issues identified above, we also have concerns about the proposal to extend the obligation to record the content of relevant face-to-face conversations with clients through written minutes (COBS 10A.1.11R) to our members that are full-scope UK AIFMs, small authorised UK AIFMs and residual CIS operators, incoming EEA AIFMs, or MiFID optional exemption firms.

15. **Q59: Some respondents to the CBA we undertook last year indicated that the costs for adhering to the new taping organisational requirements are likely to be minimal. Do you agree with this view? If not, please provide further empirical information as to why.**

    For the avoidance of doubt, we disagree that the costs of adhering to the new taping requirements are likely to be minimal for our member firms.

    We have not, in the time available to respond to the consultation paper, been able to collate comprehensive cost data. However, we have consulted informally with our members. Firms that have implemented recording systems to meet the requirements of the Market Abuse Regulation have faced hardware, software and system development costs in excess of the estimates made by the FCA – in some cases four times the FCA estimate. This does not include the cost of legal and regulatory advice on meeting data protection etc legal requirements in multiple jurisdictions. A number of our members have been advised that the telephone taping rules proposed in the consultation paper raise significant data protection issues. Such costs will be driven by the number of jurisdictions in which a firm operates and not by the number of their employees or by assets under management. This is likely to pose an additional barrier to the cross-border distribution of funds by small managers.

Yours faithfully,

Tim Lewis
Vice Chair, BVCA Regulatory Committee