CFA Institute

ADVOCACY UPDATE

GLOBAL ADVOCACY NEWS AND UPDATE

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IN THIS ISSUE

FOR COMMENTS OR QUESTIONS, CONTACT

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As the global economy and financial industry remain in flux in the midst of the pandemic, we look forward to brighter summer days ahead. To better understand the situation, we surveyed our CFA Institute global membership on the effects of the pandemic. We share highlights of this survey along with several key reports and comment letters focused on increasing transparency and integrity in the markets for investors. As always, you will also find highlights of our advocacy efforts, global events, and media coverage. We wish you a safe and healthy summer. —**Kurt N. Schacht, JD, CFA, CFA Institute Policy Director**

GLOBAL EVENTS & ACTIVITIES

MEMBER SURVEY HIGHLIGHTS UNCERTAINTY DUE TO COVID-19

Hiring remains uncertain: According to a CFA Institute survey of its global membership on the effects of the coronavirus pandemic on the economy, financial markets, and the investment management industry, many financial firms remain cautious. While the vast majority (77%) of respondents reported no change to their roles, nearly half reported that their firms had either frozen hiring (36%) or had commenced downsizing (9%). The survey found that financial firms are adopting a wait-and-see attitude in the face of the current crisis, as the relief and recovery continue to unfold. See survey highlights for more details.

Structural implications: "While it is too early to see the long-term impact this crisis may have on employment in the financial space, our CFA Institute member survey showed that a large number of respondents stated that the crisis could accelerate the drive towards automation and a reduction in fixed costs, which could have structural implications for the workforce," said Margaret Franklin, CFA, president and CEO of CFA Institute.

Asset mispricing: The survey also found that a resounding majority of respondents (96%) believe the current crisis could result in asset mispricing specifically related to current market conditions. Respondents indicated that this crisis may increase the chance of asset mispricing due to liquidity dislocation (38%) and because government intervention may distort natural market pricing (36%).

According to Ms. Franklin, "The unique circumstances of a global pandemic, as well as unprecedented swiftness in governments' responses through fiscal and monetary policy actions, greatly increase the chance of asset mispricing according to our members." For more information, see survey highlights.

Read the full survey report for more information.

ADVOCACY IN ACTION

MEDIA ATTENTION

Pensions & Investments (17 June) Sandy Peters, senior head of Global Financial Reporting Policy at CFA Institute, provided advice to investors for evaluating financial information.

Harvard Law School News (17 June) cited a CFA Institute survey showing support for quarterly reporting.

The Hill (16 June) CFA Institute Policy Director Kurt Schacht wrote on the need for transparency in bailouts.

Morningstar (15 June) covered a CFA Institute survey that shows the trend toward passive strategies is expected to continue.

Wall Street Journal (14 June) cited Sandy Peters, senior head of Global Financial Reporting Policy at CFA Institute, on disclosure of government assistance.

Hong Kong Economic Journal (12 June) quoted Mohini Singh, director of Financial Reporting Policy at CFA Institute, on how big data is helping analyze the impact of the coronavirus on consumption.

NASDAQ (11 June) Kurt Schacht, policy director at CFA Institute, wrote about the long-term effects of the growing deficit.

Wall Street Journal (10 June) quoted CFA Institute Policy Director Kurt Schacht on securities lending.

Agenda (8 June) quoted CFA Institute Global Financial Reporting Policy Head Sandy Peters on how companies are telling their COVID-19 pandemic financial stories.

Bloomberg Law (1 June) cited CFA Institute Global Financial Reporting Policy Head Sandy Peters on the PCAOB's new scorecard for accounting firms.

CFO (1 June) Sandy Peters, senor head of Global Financial Reporting policy at CFA Institute, wrote about Warren Buffett's opposition of the Financial Accounting Standards Board's ASU 2016-01.

Sky News (UK), *MSN* (1 June) cited Systemic Risk Council Chair Paul Tucker's discussion on whether BOE should consider negative rates.

Investment Week (UK) (1 June) covered CFA Institute study on cross-distribution of EU investment products.

Pensions & Investments (1 June) quoted CFA Institute Capital Markets Policy Director Matt Orsagh on President Trump's ESG reluctance.

San Diego Union-Tribune (31 May) cited a CFA Institute survey that shows members are expecting slow economic recovery.

Investment News (31 May) covered CFA Institute Advocacy Director Kurt Schacht's comments on Regulation Best Interest.

Hong Kong Economic Journal (29 May) Piotr Zembrowski, manager of Asia-Pacific Advocacy and Policy Outreach at CFA Institute, wrote about the need for comprehensive reforms in South Korea's wealth management industry.

MarketWatch (28 May) cited Sandy Peters, senior head of Global Financial Reporting Policy at CFA Institute, who urged caution against creative accounting.

Financial Advisor Magazine (27 May) covered a CFA Institute survey that shows members are expecting slow economic recovery.

Investment & Pensions Europe (28 May) cited CFA Institute comments on the IASB's COVID-19 lease amendment.

RankiaPro (ESP) *Expansion* (ESP) (25 May) covered a CFA institute study on pensions in the private market.

The Financial Times (24 May) covered Systemic Risk Council Chair Paul Tucker's comments about COVID-19 relief packages.

Cinco Dias El Pais (ESP) (22 May) interviewed CFA Institute EMEA Director of Regulatory Affairs Josina Kamerling about the possibility of the European Union (EU) emerging stronger from the COVID-19 crisis.

MARKET INTEGRITY & TRANSPARENCY

WEIGHING IN ON MIFID II/MIFIR

Key comments: On 18 May, CFA Institute submitted a response to the European Commission public consultation on the review of the Markets in Financial Instruments Directive (MiFID II)/Markets in Financial Instruments Regulation (MiFIR), sharing our views on the impact of the EU legislation and on possible changes to the regulatory framework.

Homogenization of rules: We believe that MiFID II/MiFIR has contributed to increasing transparency and efficiency of markets, but its impact on financial markets is still unclear. The heterogenous application of rules and guidelines across member states has resulted in an uneven playing field for market participants. EU institutions must address the need for homogenization of EU rules across the Union.

Research unbundling: The new rules on investment research, including the significant change to research unbundling, have had varied effects. Unbundling appears to have a negative impact on independent research firms, and difficulties persist regarding the quality, coverage, pricing, and distribution of research under the new rules. CFA Institute urges regulators to continue to monitor the evolution, as it is not yet clear if developments are due to the new legislation or were long in the making.

Product governance rules: We also stressed the need for improvements on the current product governance rules. The CFA Institute report, *The Brave New World of Product Governance in the EU Asset Management Industry*, shows that a majority of CFA Institute European members are concerned about the administrative process for suitability assessment. Simplification and clarification of the process are required.

MARKET INTEGRITY & TRANSPARENCY

URGENT NEED FOR BAILOUT INTEGRITY

Unprecedented bailout: With the vast bailout sums accumulated during the COVID-19 pandemic—more than $6 trillion between Congress and the Federal Reserve—we are facing an unprecedented period of unchecked monetary action. Systemic protection parameters put in place after the 2008 Great Financial Crisis (GFC) are being overridden in the name of economic emergency. There is an urgent need to safeguard the integrity of our economic system and keep our financial overseers accountable. Market participants wonder whether it will be possible to monitor, track, and enforce proper bailout execution and rules and maintain public trust.

Necessary accountability: Oversight is needed for the Federal Reserve, the Small Business Administration, and the Treasury to ensure transparency, monitoring, and enforcement of violations surrounding the CARES programs and Fed facilities. However, such oversight and accountability are clearly lacking. Oversight committees and councils intended to help ensure compliance and integrity are barely off the ground with little authority and vacant inspector general positions. Recently, Treasury Secretary Steve Mnuchin stated that the Trump administration will not disclose recipient names and loan information, which is a violation of the disclosure terms of the paycheck protection program (PPP) loan application.

Unchartered territory: All the planning and systemic resiliency steps designed for a GFC-like economic crisis have been overwhelmed or ignored during the COVID shutdown, which leaves us in unknown, unchecked territory. The only check and balance left on institutions and activities surrounding these massive fiscal outflows is full transparency and accountability to elected congressional leaders and the public (excerpted from *The Hill*, 16 June, 2020).

INVESTOR PROTECTION

UPDATE ON SEC REGULATION BEST INTEREST

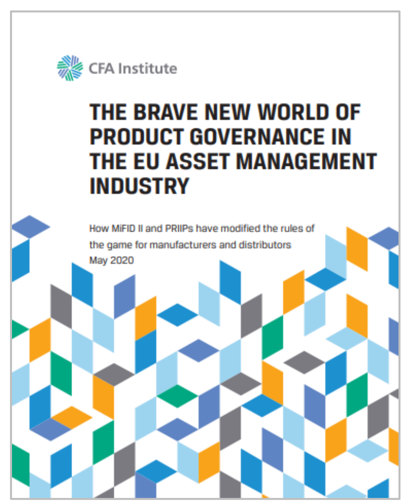
Modified Reg BI: It was announced on 5 June that Regulation Best Interest (Reg BI) and its associated Customer Relationship Summary (Form CRS) are now set for modified implementation on 30 June, with regulators applying a "good-faith" standard of compliance due to difficulties caused by the coronavirus. As stated in numerous letters to the Securities and Exchange Commission (SEC), CFA Institute does not support the new rules. They not only fail to deliver a higher standard of care for brokers, but they muddy the waters between the roles of best-interest brokers and fiduciary-duty investment advisers.

Market changes: As the brokerage industry readied itself for the new regulatory order where the Investment Adviser Act's "incidental advice" exemption was replaced by regulation with an uncertain definition of what constitutes "best interests," the market for brokerage services was shifting under its feet. In October, when online broker Charles Schwab announced it was cutting online commissions per trade from $4.95 to zero, it created a seismic shift in the online broker industry, with many online brokers following suit. The move has not only forced the brokerage industry to reassess its business model without commissions, but it has also required a reconsideration of where to focus its people and resources. Many firms have turned to training their brokers to register as investment advisers, slowed only by the coronavirus's effect on training programs.

Outcome remains uncertain: It remains to be seen whether the new regulatory regime, coupled with a brokerage landscape where commission-based firms operate at a competitive disadvantage, will lead to better investor outcomes. However, the fact that firms are training their brokers to become registered investment advisers is a step in the right direction for investors. Whether or not their advice is conflicted, as registered advisers, they will be bound by a common law fiduciary duty that will lower the thresholds for investor claims on bad guidance.

MARKET INTEGRITY & TRANSPARENCY

NEW REPORT ON EU PRODUCT GOVERNANCE



Survey report: CFA Institute released a report with survey results highlighting European members' views on how product governance practices have changed over time and the specific effects of major regulatory developments like MiFID II and packaged retail investment and insurance-based products (PRIIPs). The research aims to shed light on the relationship between manufacturers and distributors of investment products in the EU amidst a changing environment of eroding trust, increasing regulation, compressing margins, and new technology.

Key points: Key takeaways from respondents include the following:

- Overall, MiFID II and PRIIPs have improved the quality of the relationship between manufacturers and distributors of investment products in the EU.
- Consistency in applying directives across EU Member States and investment firms on suitability assessment and investor information remains problematic for investor protection.
- Respondents support the principle of standardization of investor information through the key investor document (KID), but not its high level of complexity.
- Cross-border marketing and passporting are perceived to have a positive effect on regulation, but they need further harmonization, clarification, and guidance.
- Respondents favor further centralization of supervisory powers with European Securities and Markets Authority (ESMA) for the monitoring of marketing practices.

MARKET INTEGRITY & TRANSPARENCY

PROVIDING GLOBAL INVESTOR PERSPECTIVE IN EU ESG DISCLOSURE

New comment letters: CFA Institute has weighed in on how to improve Environment, Social, and Governance (ESG) disclosures in the EU by issuing responses on key proposals and consultations.

Accountancy Europe Interconnected Corporate Reporting: CFA Institute issued a comment letter in response to Accountancy Europe's paper, *Interconnected Standard Setting for Corporate Reporting*, which aims to consolidate the various non-financial information (NFI) reporting initiatives and create interconnected standard setting and global metrics. The paper's approach builds on the IFRS Foundation [that sets accounting standards by way of the International Accounting Standards Board (IASB)] and creates a Corporate Reporting Foundation, that is responsible for financial and non-financial reporting oversight.

Our position: We support high-quality reporting standards and the need for consistency and uniformity of information including non-financial information. In our comment letter, we set forth the following key points, including:

- We support efforts toward convergence of standards globally to facilitate investment decision making.
- We support long-term value creation, sustainable business models, and integrated reporting.
- The term "non-financial information" needs rebranding and clarification in order to highlight the link to financial performance and financial value creation and to garner global support.
- The audience (investors) and communication objective (financial value creation) must be specified, and clarification on funding and materiality is needed.

European Non-financial Reporting Directive: CFA Institute also submitted a response to the European Commission Consultation on the Non-financial Reporting Directive (EU NFRD), which requires companies to disclose information on how sustainability issues may affect the company and how the company affects society and the environment.

Our position: Overall, we support disclosure of non-financial information, including expanding the scope and need for an independent global standard setter for NFI just as for financial information. We believe assurance should be mandatory for NFI and that digitization, tagging of information, and use of common standards are critical.

INVESTOR PROTECTION

AUDIT QUALITY IS IMPORTANT TO INVESTORS

Letter to PCAOB: CFA Institute recently issued a comment letter to the Public Company Accounting Oversight Board (PCAOB) highlighting our support for a global measure of audit quality.

Our position: We believe audit quality is the single most important area that needs significant improvements relating to the audit process and product. Firms should be required to provide disclosures of audit quality and quality control, including audit quality indicators (AQIs), and to explain how they respond to identified deficiencies. We believe the PCAOB should complete its project on audit quality indicators.

Support of CII: We agree with the Council of Institutional Investors (CII) that firms should be required to establish quantifiable performance measures for the achievement of quality objectives. We support and emphasize CII's call for creation and publication of audit quality indicators. For more information, refer to our recent blog highlighting our views.

GLOBAL EVENTS & ACTIVITIES

FOCUSING ON ADVOCACY PRIORITIES

Key priorities: The US Society Advocacy Advisory Committee (SAAC) met virtually on 27 May to discuss CFA Institute advocacy efforts and priorities for the coming year, which include the following:

- **Fiduciary duty:** A key focus will be to ensure that investors understand standards of care of different providers. However, the Committee considered the possibility that the issue should be put on hold in light of Reg BI's pending implementation and the likelihood that it would take a number of years to develop sufficient data to consider whether and how to change the rule.
- **ESG disclosures:** We are working toward uniform standards, based on practical perspectives rather than policy. We are focused on the SEC's rule proposal to deal with fund companies promoting their sustainable investment strategies in their fund names. CFA Institute is also planning to produce a standard for material disclosures, a report on climate change based on a survey of members, and a series of case studies on ESG application.
- **Fintech regulation:** We aim to clarify what fintech is, promote suitable regulations to ensure investors are appropriately protected, and see that markets are not put at risk.
- **Retirement:** We support the SECURE Act at the federal level to promote retirement investment and will focus on assisting CFA Societies with state-based advocacy on financial literacy for retail investors and pension trustees.

Follow-up: The meeting also provided updates on our efforts to seek inclusion from Congress in the CARES Act and the survey results on expected effects of the COVID-19 pandemic on markets and the investment industry. There will be a follow-up meeting in late June.

GLOBAL EVENTS & ACTIVITIES

KEY ENGAGEMENTS

ESG Webinars: CFA Institute provided insight and analysis in recent webinars on important environmental, social, and governance topics in APAC.

- **5 May:** Piotr Zembrowski, manager of Advocacy Research and Content for Asia-Pacific at CFA Institute, presented the results of the 2019 research report, *ESG Disclosures in Asia-Pacific*. The webinar also included a presentation of research by BDO and The Hong Kong Polytechnic University on ESG disclosures by Hong Kong-listed companies.
- **21 May:** CFA Institute, CFA Society Singapore, and Climate Bond Initiative hosted a *webinar,* "How Green Are Green Bonds?" Experts from Climate Bond Initiative, OCBC Bank, and Vigeo Eiris, a provider of ESG research, participated in a lively panel discussion moderated by Mary Leung, head of advocacy for Asia-Pacific at CFA Institute.

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- **9 June:** CFA Institute hosted a webinar, "ESG Investing Post Covid-19," focused on application of big data and artificial intelligence in ESG investing. The guest speaker was Jason Tu, founder and CEO of MioTech, and Mary Leung moderated the event.

Primary Financial Statements Roundtable (26 May): Mary Leung and Kazim Razvi, director of Financial Reporting Policy at CFA Institute, chaired a virtual roundtable for Asia-Pacific society advocacy chairs. Representatives of CFA Societies from Australia, Bangladesh, Hong Kong SAR, India, Japan, Malaysia, New Zealand, Singapore, and South Korea attended the event. The roundtable was held to formulate a response to the IASB's December 2019 consultation on General Presentation and Disclosures to improve IFRS primary financial statements presentation from the current practice by improving comparability, providing more disaggregation of information, and creating discipline in structuring of performance statements.