

TO: CESR - Committee of European
Securities Regulators
11-13 Avenue de Friedland
75008 Paris

Ref: CESR/09-958

Milan, 22th December 2009

ANASF COMMENTS ON

“Inducements: Good and poor practices”

Consultation Paper

ANASF (the National Association of Promotori Finanziari) is the only association which exclusively represents tied agents (promotori finanziari), and has more than 12.200 members. ANASF is pleased to have the opportunity to take part in the public consultation indicated, answering some of the questions brought up by the Committee.

➤ III. CLASSIFYING PAYMENTS AND NON-MONETARY BENEFITS AND SETTING UP AN ORGANISATION TO BE COMPLIANT

Q. I: Do you agree with CESR's views about the arrangements and procedures an investment firm should set up?

We agree with Cesr. Mifid has explained that the provisions on inducements apply irrespective of, or along with, other specific functions. It is therefore necessary to first identify, and then classify, the payments and services linked to the supply of an investment or ancillary service to the customer, with a view to assessing whether or not these are in line with the Mifid rules on inducements and admissible.

Q. II: Do you have any comments on CESR's views that specific responsibilities and compliance controls should be set up by investment firms to ensure compliance with the inducements rules?

We agree with the Committee. The compliance function of the investment company has to adopt measures for the management of the inducements, and take responsibility for these. Due to the modifications that may take place in the course of time, the continuous monitoring and assessment of the adequacy and efficiency of the measures and procedures adopted in accordance with the rules on inducements are of absolutely fundamental importance.

Q. III: What are your comments about CESR's view that at least the general approach the investment firm is going to undertake regarding inducements (its 'inducements policy') should be approved by senior management?

It is essential for senior management to be aware of all the procedures and measures adopted by the compliance function to manage the investment company inducements and to take responsibility for these, to guarantee greater safeguards for savers.

➤ **PROPER FEES:**

Q. IV: Do you agree with CESR's view that all kinds of fees paid by an investment firm in order to access and operate on a given execution venue can be eligible for the proper fees regime (under the general category of settlement and exchange fees)?

Yes, we agree with Cesr.

Q. V: Do you agree with CESR's view that specific types of custody-related fees in connection with certain corporate events can be eligible for the proper fees regime?

Yes, we agree with Cesr.

➤ **V. PAYMENTS AND NON-MONETARY BENEFITS AUTHORISED SUBJECT TO CERTAIN CUMULATIVE CONDITIONS – ACTING IN THE BEST INTERESTS OF THE CLIENT AND DESIGNED TO ENHANCE THE QUALITY OF THE SERVICE PROVIDED TO THE CLIENT**

Q. VII: Do you agree with CESR's view that in case of ongoing payments made or received over a period of time while the services are of a one-off nature, there is a greater risk of an investment firm not acting in the best interests of the client?

The aggravated risk highlighted by Cesr is possible. We therefore agree with the Committee that rigorous risk management by the investment company is essential.

Q. VIII: Do you have any comments regarding CESR's view that measures such as an effective compliance function should be backed up with appropriate monitoring and controls to deal with the specific conflicts that payments and non-monetary benefits provided or received by an investment firm can give rise to?

Yes, we agree with Cesr. Adopting appropriate procedures is not sufficient in itself. It is necessary to adapt and monitor the provisions in question in the course of time, to bring them into line with any specific cases or special modifications that might emerge.

Q. IX: What are your comments on CESR's view that product distribution and order handling services are two highly important instances where payments and non-monetary benefits received give rise to very significant potential conflicts? Can you mention any other important instances where such potential conflicts also arise?

The two examples brought up by Cesr are in effect possible cases in which potential conflicts of interest might arise. In our opinion, it is important to ensure that the customer is informed of these and is aware that all the appropriate measures will be adopted to resolve and handle them, with a view to avoiding any possible negative impact on the interests of the savers.

Q. X: What are your comments on CESR's view that where a payment covers costs that would otherwise have to be charged to the client this is not sufficient for a payment to be judged to be designed to enhance the quality of the service?

Although this is a payment which covers costs in any case attributable to the customer, we believe it is necessary to carry out a prior analysis to ensure that these costs are effectively geared towards improving the quality of the service offered to the saver, irrespective of the fact that it is this latter who has to pay them.

➤ VI. PAYMENTS AND NON-MONETARY BENEFITS AUTHORISED SUBJECT TO CERTAIN CUMULATIVE CONDITIONS – DISCLOSURE

Q. XI: Do you have any comments on CESR's views about summary disclosures (including when they should be made)?

We agree with Cesr that it is essential that the explanatory materials, no matter how brief, should enable the investor to link the information received to the investment or ancillary service provided, and allow him to make an informed decision. It is also indispensable for the company to supply that information before providing the service, and to make it very clear to the saver that he has the right to obtain precise and detailed information.

Q. XII: What are your comments on CESR's views about detailed disclosures?

We believe it is correct that the customer be informed of the possible payments that the company might receive from third parties, as well as of the amounts in question or, if this is not possible, by indicating the bases for calculation that will be used to determine these. It would be even more useful if the saver could be provided with a few practical examples, in table form if necessary. Not all savers, especially the retail customers, have a clear understanding of the various commission structures or possible payments.

Q. XIV: Do you agree with CESR's views on the documentation through which disclosures are made?

Yes, the customer should not be overburdened by a never-ending mass of documents. The information should simply be supplied by means of clear, transparent, standard summary leaflets, in addition to any other relevant information that may be passed on to the saver at the time when an operation is carried out on a specific financial instrument.

Q. XV: Do you agree with CESR's views on the difference of treatment between retail and professional clients?

Yes, this distinction is clearly explained in the Mifid directive. In any case, when a professional client requires any further information a request for this may be passed on to the investment company, if that customer believes that he is not in a position to assess and handle the investment risks correctly.

Please do not hesitate to contact us for any clarification.

With kindest regards



The Chairman
Elio Conti Nibali