



**POSITION PAPER ON
CESR's PUBLIC CONSULTATION
CONCERNING
INDUCEMENTS UNDER MIFID**

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We are grateful that CESR has improved the proposals in a number of ways.

That the focus on fund commission has been replaced by a more balanced consideration of remuneration structures generally for instruments covered by MiFID is very welcome. However we note that where other instruments other than mutual funds use non-commission remuneration models they can be complex to unravel. This is true of a number of complicated financial instruments, such as certificates.

That the concept of proportionality has been removed and we feel this too is helpful. Also the interpretation of enhancement has become more flexible clearly permitting payments to administration-oriented intermediaries which are not advisers, such as platforms. Also helpful is CESR's explicit confirmation that it does not seek to differentiate between open and closed market models for the purposes of inducements.

However, we have three comments where we feel that there are still flaws within the proposals.

Firstly, there remains the significant unlevel playing field concern that MiFID instruments such as mutual funds will be required to follow a standard of disclosure that will not apply to other products such as insurance products. This has the significant potential to mislead investors and create a demand for less transparent products. In the short term we ask that individual regulators have regard to market impact and investor protection issues in the manner in which they implement CESR's recommendations and that they consider extending MiFID standards on inducements to all financial products, if necessary initiating discussions with their counterparts in the insurance and banking sectors where appropriate.

Secondly, the first consultation had a very clear statement that the responsibility of disclosure rested with the intermediary (and the intermediary alone) which had the relationship with the client. This clarity could usefully be reinserted within the recommendations.

Finally, we note CESR's comment on the fact that the recommendations do not cover payments within a firm such as internal bonus programmes. However, it points out that such arrangements are covered by the general conflicts of interest provisions under Article 21. We feel it would be helpful if this were to be included within a recommendation or at least as a commentary.