

Consultation Paper – Inducements: Good and poor practices

Comments of Caixa Geral de Depósitos on the public consultation:

➤ **Classifying payments and non-monetary benefits and setting up an organisation to be compliant.**

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

Question 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?

Question 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?

We agree that there should be procedures, which allow investment firms to identify, classify and evaluate their payments and non-monetary benefits. However, these procedures must be adapted to each investment firm, considering their dimension and specific core of business. It is our understanding that such principles should be written procedures of the investment firm, and be part of its internal rules.

➤ **Proper Fees**

Question 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)?

Question 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?

Question VI: Are there any specific examples you can provide of circumstances where a tax sales credit could be eligible for the proper fees regime?

It is our understanding that are under the category "proper fees", all the payments supported by the investment firm to access trading systems, as well custody fees.

- **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:**

Question 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?

We agree with CESR's understanding.

Question 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?

Question IX: What are your comments on CESR's view that product distribution and order handling services (see §74) 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?

Question 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?

We have no comments about question VIII, because we agree with CESR's understanding about this issue.

About questions IX and X, we think that the systems used by some investment firms to distribute units in collective investment schemes (CIS) and soft commissions for providing portfolio management services are susceptible to result on a conflict of interests' situation.

- **Payments and non-monetary benefits authorised subject to certain cumulative conditions - Disclosure**

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

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

Question XIII: Do you have any comments on CESR's views on the use of bands?

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

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

We agree that disclosures should be clear and with sufficient information to allow the investor to make an informed decision. Such information is prior to the investment decision.

It is our understanding that the use of bands is admissible if they have a narrow range. Non-monetary benefits concerning, we think they should be described using clear and detailed information. However, some investors could not understand such information, because some don't know the uses of investment firms. To prevent this type of situations, it is our opinion that should be a harmonization about the presentation of disclosures, at least in what retail clients concerns.

Compliance Department, 22/12/2009