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CESR's Public Consultation on Inducements under MiFID
CESR/06-687.

Danish Shareholders Association, DAF, is the organisation representing private investors in Denmark.

Question 1
Yes. DAF agrees with CESR that Article 26 applies to all and any fees, commissions and non-monetary benefits that are paid or provided to or by an investment firm in relation to the provision of an investment or an ancillary service to a client.

Question 2
Yes. DAF agrees with CESR's analysis of the general operation of Article 26 of the MiFID Level 2 Implementing Directive and of its interaction with Article 21.

Question 3
Yes. DAF agrees with CESR's view of the circumstances in which an item will be treated as a "fee, commission or non-monetary benefit paid or provided to or by … a person acting on behalf of the client".

Question 4
DAF has not identified other circumstances in which an item should be treated as a "fee, commission or non-monetary benefit paid or provided to or by the client or a person acting on behalf of the client".

Question 5
DAF agrees with CESR's analysis of the conditions on third party receipts and payments.

Question 6
DAF doesn't have further factors to add to the factors considered relevant to the question whether or not an item will be treated as designed to enhance the quality of a service to the client and not impair the duty to act in the best interests of the client.

But the consequences of whether the investment firm is acting as agent for its client or could be elaborated.

Question 7
DAF finds that it would be useful for CESR to seek to develop the guidance on the detailed content of the summary disclosures beyond stating that "such a summary disclosure must provide sufficient and adequate information to enable the investor to make an informed decision whether to proceed with the investment or ancillary service; and, that a generic disclosure which refers merely to the possibility that the firm might receive inducements will not be considered as enough".

Comments on the content of and presentation of the disclosure seen in relation to the client's behavioural pattern would be useful. All clients have a first investment consideration and decision. Some clients have several investment decisions per year others have only investment decisions every second year. Some clients use only one type of investments others change between different types of investment.

Is it possible to say something about "sufficient and adequate information" for clients with different behavioural patterns and at different junctures?

Can the disclosure requirements be met by information send out together with the end year report from the investment firm?

How should the information be presented?

Can the obligations be met by giving a short summary statement with a link to the website of the investment firm?

Question 8
DAF agrees in principle with CESR's approach that when a number of entities are involved in the distribution channel, Article 26 applies in relation to fees, commissions and non-monetary benefits that can influence or induce the intermediary that has the direct relationship with the client.

It could be helpful if the question of how "all of the investment firms along the distribution channel must respond to the obligation of an investment firm to act in the best interest of its client" was developed.

Question 9
DAF would like a dimension added to CESR's analysis of how payments between an investment firm and a tied agent should be taken into account under article 26 of the Level 2 Directive. The tied agent will have relations not only with the Investment firm, but also with the Management Company. All the relations of the tied agent and the

Investment Company must be taken into consideration as well as the possibility of softing and bundling.

Question 10
It should be taken into consideration how the tied agent shows his position as a tied agent to the clients and how the clients get the information that the responsible is the Investment firm and not the Tied agent.

Question 11
Danish Shareholders Association has no precise information on the actual level of softing and bundling arrangements.

The impact of Article 26 of the MiFID Level 2 Directive on current arrangements will first of all be an evaluation from the investment firms. Can the arrangements continue and what will be the reactions from clients when the content and importance of the arrangements must be disclosed.

Question 12
DAF considers a common supervisory approach across the EU to softing and bundling would be helpful. Consumers are not aware of the different regulations in the Member States so these differences can be an obstacle to the internal market.

Question 13
It would be good if CESR helped to develop the common approach regarding softing and bundling.

Yours sincerely

Danish Shareholders Association

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