CESR
11-13 avenue de Friedland
75008 Paris
France

22nd December 2009

Dear Sir or Madam,

Inducements: Good and Poor Practices

International Financial Data Services ("IFDS") provides a range of services to the collective investment scheme and ISA Management industry via three FSA-regulated companies. International Financial Data Services (UK) Limited ("IFDS UK") provides outsourced dealing and, in conjunction with International Financial Data Services Limited, registration services to collective investment products, supporting over 5.8 million accounts across 33 fund management companies (over 40% of the UK market). IFDS Financial Services Limited ("IFDS FS") offers investment wrapped products, such as ISAs, to investors in association with other regulated firms. IFDS Managers Limited ("IFDS ML") operates CIS products (unit trusts/OEICs) designed in conjunction with external asset management firms and product distributors.

As the leading supplier of administration and transfer agency services to UK fund managers, IFDS handles significant levels of commission payments between product providers and firms that provide investment advice. Since this is an area to which the UK's regulator, the Financial Services Authority (FSA), is currently giving substantial attention, we have taken a keen interest in CESR's findings in equivalent areas in other member states. For this reason our comments are principally directed towards CESR's findings under sections three (*Payments and other non-monetary benefits authorised subject to certain cumulative conditions – acting for the best interests of the client and designed to enhance the quality of the service provided to the client*).

Given that so much of the industry's focus at the moment is on what and how to disclose information to investors (the Key Information Document and the Packaged Retail Investment Products initiative, for example), we believe that CESR's publication of its findings in 'Inducements: Good and Poor Practices' offers firms a timely reminder of what standards can be expected of them in an area that has received far less recent attention, but is nonetheless important.

In addition, the need to establish a consistent approach to the Inducement rules across member states is all the more important given the cross-border business opportunities that will be presented by UCITS IV. In our view, it is clearly as beneficial for firms to be able to apply a single standard across the breadth of their European businesses, and be certain it is the right standard, as it is for investors to know that that they can expect the same standards of treatment irrespective of where in the EU an investment firm is based.

It is imperative that, in this period of low investor confidence, investors are not given any reason to doubt whether the investment firms with which they deal can be relied upon to act in their best interests.

We note that throughout the findings CESR have highlighted the fact that, whilst firms have come up with many reasons why a certain payment might enhance a service, they have not dealt as convincingly with the question of whether the payment was expressly *designed* to enhance the service. In our view, this is a crucial distinction: the fact that some firms might not have fully appreciated it

clearly suggests that there may be occasions when the requirements of MiFID are being applied retrospectively to pre-existing (i.e. pre-MiFID) systems of payment, and only to the extent that they allow such payments to continue.

Responses to individual consultation questions:

Question VII

Although we broadly agree that on-going payments could potentially lead to a greater risk, this needs to be qualified. If the payments are finite, either limited by time or the total amount to be paid over time, then there is perhaps no reason, all else being equal, why there should be a greater risk. However, it would seem to be a far greater risk if the payments would or could continue indefinitely. If the service is for a defined one-off service, we find it difficult to see how indefinite payments can be justified.

Question VIII

In our opinion, ensuring the existence of appropriate monitoring and controls in the area of possible conflicts is a prerequisite of any effective compliance function – we do not see how the compliance function can be effective otherwise.

Question IX

We agree that these are key areas, in that there is a significant potential for conflicts to arise with the client's best interests. Our involvement and experience relates to payments made by product providers to financial advisers and, as mentioned previously, the UK's FSA have taken a clear stance on this issue. In such cases the FSA has stated, we believe rightly, that on-going payments should be for an on-going service. We would urge CESR to consider to what extent similar problems might exist in other member states and to investigate what measures would be appropriate to tackle them.

The particular concern here, of course, is that the advice firm has a quite obvious and strong disincentive to act in the clients' best interests, since that might in reality mean advising them to move to another product or firm that does not provide the adviser with an equivalent level of on-going payments.

Question X

We agree with CESR's view. The client will, in all likelihood, still be paying the cost, whether it is explicitly disclosed and paid 'upfront' or bundled up with generic product charges. In our view it is better that the client understands the costs involved with the product or service. Where such charges are not understood then it is far more difficult for the client to make an informed decision.

Should you wish to discuss any of our responses further please call me on 01268 444989. Alternatively please call Nick Turner on 01268 445768.

Yours faithfully,

Clive Shelton

C J Shelton FSI
Risk & Compliance Director