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S267 - D14220

CESR Technical Advice to the European Commission in the Context of the MiFID Review – Investor Protection and Intermediaries

Reply to Consultation Document No. 10-417 of 13 April 2010

The Association of Danish Mortgage Banks and the Danish Mortgage Banks' Federation have considered the captioned consultation document.

We thank you for the opportunity to submit the below remarks, but believe that the deadline for contributions has been very short indeed and has limited our ability to provide you with a thorough reply.

We have chosen to answer a limited number of the questions asked, based on what seems – at this stage - to be the most important issues for our members.

Part 1: Requirements relating to the recording of telephone conversations and electronic communications

Q.1: In our view there is no need for the recording of telephone conversations and/or electronic communications.

The purpose of the recording is a.o. to facilitate regulators' work with market abuse. For publicly traded mortgage bonds that are subject to extensive public regulation (as is the case for Danish mortgage bonds), the risk of insider trading is miniscule compared to equity markets and certain types of corporate bonds. Therefore, such a requirement should not be introduced.

Q.2: If a recording requirement is introduced, we fully agree with CESR, that it should be minimum harmonizing.

Q.3-4: No answer.

Q.5: If a financial institution makes the choice to let the employees use a certain technology when communicating with clients, in our view, it should be possible to record and keep the information communicated in this way.

Q.6: In our opinion, this would call for the development of a completely new set-up in the financial institutions, if the telephone conversation is to be recorded both places. This is due to the fact that the transactions will not necessarily be carried out between two trading departments.

Before such a proposal is put forward, it is essential to make certain, that the scope of the proposal is not already a reality due to other existing registration requirements. We would like to add, that the process does not involve clients, which makes it hard to understand the need for a registration requirement in this context at all.

Q.7: No answer.

Q.8: We are of the opinion that the retention period for the recordings should be decided with a view to other EEA legislation regarding the period of time for which documentation on communication with clients is to be kept.

Q.9-10: No answer.

Q.11-12: Given the timeframe of the consultation, we are not in a position to produce an estimate of the costs.

Part 2: Execution quality data (Art 44(5) of the MiFID Level 2 Directive)

Q.13-19: No answer.

Q.20: We fully agree with CESR that now is not the time to introduce this kind of legislation regarding classes of financial instruments other than shares.

Part 3: MiFID complex vs non complex financial instruments for the purposes of the Directive's appropriateness requirements

Q.21: It is our opinion, that with the proposed wording of Art 19(6) the Danish mortgage bonds will still fall into the category of "non complex financial instruments".

The Danish mortgage bonds are transparent, standardized and easy to understand, and there is no indication what so ever that retail investors have experienced problems in understanding the product. On the contrary!

Q.22-23: No answer.

Part 4: Definition of personal recommendation

Q.24: No answer.

Part 5: Supervision of tied agents and related issues

Q.25-27: No answer.

Part 6: MiFID Options and Discretions

Q.28: We support the suggested deletions and amendments to the MiFID texts.

* * *

Yours faithfully,



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Danish Mortgage Banks' Federation



Jan Knøsgaard
Association of Danish Mortgage Banks

About the Association of Danish Mortgage Banks and the Danish Mortgage Banks' Federation

The Association of Danish Mortgage Banks and the Danish Mortgage Banks' Federation are the trade associations for all of Danish mortgage banks, representing nearly 100 pct of the total remaining bond debt volume in DKK.

Our members grant loans against security in the form of mortgages on real property.

The mortgage loans are based on the issuance of mortgage bonds (ROs), covered mortgage bonds (SDROs) and covered bonds (SDOs).

The total volume of lending granted by Danish mortgage banks - the remaining bond debt - amounted to DKK 2,180 billion (approx EUR 300 billion) in April 2010.

The Association of Danish Mortgage Banks and the Danish Mortgage Banks' Federation are active members of a number of international organizations and associations such as the European Mortgage Federation (EMF) and the European Covered Bond Council (ECBC).