

MiFID-Inducements

Referring to the above mentioned issue the Bank and Insurance Department of the Federal Economic Chamber welcomes the opportunity to comment on CESR's Second Consultation Paper concerning Inducements under MiFID:

Question 1:

The new factor (d) in Recommendation 4 should at least be supported by examples. In the proposed way (joint or common interests) we are not even able to assess the additional factor.

In addition to the relationship to an outsourcing service provider (acting on behalf of the outsourcing institution) should be clarified as not being a third party.

Question 2:

The examples will prove helpfully determining how Article 26 applies in practice.

Question 3:

We appreciate the analysis but nevertheless we would like to point out that each case may need an individual examination.

Furthermore we embrace the analysis of example IX: "in the absence of payment by the product provider or issuer these investment services, most likely, would not be provided; therefore, the payments may be seen being designed to enhance the quality of the service to the client."

But this analysis also applies to cases in which the client is paying one part of the fee for the investment firm and the second part is payed by the product provider. Also in these cases the investment firm would not provide its service without getting the full fee. In other words the consequences would be either increasing the fee payed by the client or not providing the service futhermore. For this reason we cannot see any incentive to be provided by the product provider which would be likely to change the investments firm's behaviour (Recommendation 4 lit c).

Based on these arguments the analysis of example V should be reconsidered.

Best regards,

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