

**RESPONSE BY AXA INVESTMENT MANAGERS
(EU Transparency Register number 75149096203-49)
TO
ESMA CONSULTATION PAPER “GUIDELINES ON REMUNERATION
POLICIES AND PRACTICES (MiFID)”**

AXA Investment Managers

AXA Investment Managers is a multi-expert asset management company backed by the AXA Group, a world leader in financial protection. It manages €548 billion across all main asset classes, which include fixed income, equities, funds of hedge funds, private equity, real estate and structured finance. We manage segregated mandates for institutional and private clients, and UCITS funds and AIFs, and are therefore regulated under MiFID, UCITS Directive and AIFMD. AXA IM operates globally from 23 countries, including 17 centres in Europe.

We note that these guidelines are mainly targeted at sales activities with retail clients, but are applicable, to the extent they are relevant, when services are provided to any type of clients (Para 9). Our distribution model is based on business to business: we market our funds and services to institutional clients, consultants, distributors and intermediaries, rather than directly to retail investors. This marketing may be undertaken by group companies other than the entity that is the provider of the product or service concerned.

1. General comments

- As stated in our response to the recent ESMA consultation on AIFMD remuneration guidelines, we would encourage ESMA to issue all of its remuneration guidance in a single consolidated document, as AXA IM and many other groups / firms will be subject to all of these requirements. Sales staff may be responsible for marketing products and services in multiple jurisdictions both within and outside the EU, and covered by various different EU Directives and regulation.
- We consider it essential that supervisors adopt a clear and consistent approach to proportionality, and allow sufficient flexibility to accommodate the wide differences in size, activities and risk profile of firms. We urge ESMA to be very clear in the latitude that this provides for firms to depart from guidance where they consider that this is justified by their circumstances.
- The use of examples of good and poor practice is helpful in understanding ESMA's views. However, it should be made clear whether good practice

examples are effectively mandatory, and poor practice examples are effectively outlawed, even where firms may have grounds for departure, otherwise there may be inconsistent application by firms and by national supervisors. We consider that the examples should be no more than rebuttable presumptions.

- We would be concerned if EU remuneration guidance damaged the international competitiveness of EU firms, and distorted the market for sales staff. This could arise if EU sales staff were tempted to join non-EU firms because they were able to offer significantly more attractive remuneration packages, potentially leading to a drain of talent, and better business opportunities for distributors based outside the EU. It should be recognised that EU based sales staff may serve clients both within and outside the EU.

2. Answers to questions

Q1 Do you agree that firm's remuneration policies and practices should be aligned with effective conflicts of interest management duties and conduct of business risk management obligations so as not to create incentives that may lead relevant persons to favour their own interest, or the firm's interests, to the potential detriment of clients? Please also state the reasons for your answer.

Yes.

Q2 Do you agree that, when designing remuneration policies and practices, firms should take into account factors such as the role performed by relevant persons, the type of products offered, and the methods of distribution? Please also state the reasons for your answer.

Yes. In particular, account should be taken of the different risk profile where distribution is not undertaken directly with retail investors.

Q3 Do you agree that when designing remuneration policies and practices firms should ensure that the fixed and variable components of the total remuneration are appropriately balanced?

The issue of "appropriate balance" is difficult to define in a way which will be consistently applied by firms and by supervisors, particularly given the differences in business model and risk profile between firms. We agree with the principle, but it should be left to firms to decide what this means in their particular circumstances and to be able to explain this to supervisors, without their being second guessed in hindsight.

Q4 Do you agree that the ratio between the fixed and variable components of remuneration should therefore be appropriate in order to take into account the interests of the clients of the firm? Please also state the reasons for your answer.

Variable compensation of sales and client service staff is not necessarily linked only to short term sales. Firms should consider the ration between the fixed and variable components of remuneration. The fixed component should be sufficient to live on, and the variable component should reward performance without creating inappropriate incentives, but we do not consider that a standard fixed ratio can be defined that will be appropriate in all cases.

Q5 Do you agree that the performance of relevant persons should take account of non-financial (such as compliance with regulation and internal rules, market conduct standards, fair treatment of clients etc.), as well as financial, criteria? Please also state the reasons for your answer.

We agree that it is appropriate to consider these factors. But this may be done in a way that reduces variable remuneration in cases where appropriate standards are not met, rather than by applying complex formulae that assess each of the elements in all cases.

It is not only where a firm has variable remuneration that it should have measures to identify where persons fail to act in the best interests of the client and to take remedial action. This should apply in all cases.

Q6 Do you agree that the design of remuneration policies and practices should be approved by senior management or, where appropriate, the supervisory function after taking advice from the compliance function? Please also state the reasons for your answer.

Remuneration policies should be approved by the supervisory function, at the recommendation of senior management, rather than by senior management.

They should consider what specialist functional expertises should be consulted, for example legal, compliance, risk management, HR. There should not be a specific obligation for compliance to be consulted, or for any advice given to be taken.

Q7 Do you agree that senior management should be responsible for the implementation of remuneration policies and practices, and for preventing and dealing with any the risks that remuneration policies and practices can create? Please also state the reasons for your answer.

Yes, subject to our response to question 6.

Q8 Do you agree that the organisational measures adopted for the launch of new products or services should take into account the remuneration policies and

practices and the risks that the new products or services may pose? Please also state the reasons for your answer.

We agree that firms should avoid unnecessarily complex policies and practices. There is a risk that prescriptive guidance could drive them to do so. Hence it is important that ESMA's guidance is not unduly prescriptive, and that firms are able to follow its spirit as applicable to their own circumstances.

Q9 Do you agree that the process for assessing whether the remuneration features related to the distribution of new products or services comply with the firm's remuneration policies and practices should be appropriately documented by firms? Please also state the reasons for your answer.

If this means documenting this each time a new product (e.g. fund) or service is launched, then we consider that this is excessive. It should be sufficient to document it as part of the design of the remuneration policy, taking account of broad product categories, rather than at an individual product level. This should be reviewed periodically, when remuneration policies are changed or when new types of product are introduced.

Q10 Do you agree that firms should make use of management information to identify where potential conduct of business and conflict of interest risks might be occurring as a result of specific features in the remuneration policies and practices, and take corrective action as appropriate? Please also state the reasons for your answer.

Management information may assist in identifying where such risks are arising (for example in sales analyses or complaints statistics). Management information systems should be designed to help identify major risks. But it must be recognised that the extent of management information and the level of detail will focus on material issues for the running of the business, and cannot be relied upon to identify all such risks.

Q11 Do you agree that firms should set up controls on the implementation of their remuneration policies and practices to ensure compliance with the MiFID conflicts of interest and conduct of business requirements, and that these controls should include assessing the quality of the service provided to the client? Please also state the reasons for your answer.

We agree that firms should have controls. But these will depend on the nature of the business. Monitoring telephone sales and sampling advice and portfolios is relevant for firms selling directly to retail clients, but may not be for firms whose business is B2B.

Q12 Do you agree that the compliance function should be involved in the design process of remuneration policies and practices before they are applied to relevant staff? Please also state the reasons for your answer.

As stated in our response to ESMA's consultation on AIFMD remuneration guidance, it should be for the supervisory function to determine the appropriate extent of the involvement of competent corporate functions such as compliance in the design and oversight of remuneration policies. This may depend inter alia on their need for specialist advice, the specific sensitivities of remuneration matters, and the competences of these functions on remuneration matters.

It is also for the supervisory function to determine how they satisfy themselves ex post about compliance of their remuneration policies. This could involve compliance, internal audit, or an external reviewer.

Q13 Do you agree that it is difficult for a firm, in the situations illustrated above in Annex I, to demonstrate compliance with the relevant MiFID rules?

Q14 If you think some of these features may be compatible with MiFID rules, please describe for each of (a), (b), (c) and (d) in Annex I above which specific requirements (i.e. stronger controls, etc) they should be subject to.

We do not entirely agree that the examples provide hard rules in all circumstances, particularly where sales staff are dealing with an intermediary (who may be recommending products to its clients from a range of providers) rather than the end client and are not acting in an investment advisory capacity.

For example, where a business distributes through intermediaries, rather than directly to retail investors:

- it may be appropriate for sales staff to focus on marketing new products (which distributors may not be aware of, rather than existing products with which they are already familiar);
- it may also be appropriate in this situation for sales staff to focus on higher margin products, which maximise profitability for the firm, rather than those products overall most suited to the distributors' underlying clients.

We would also comment that the risks of misselling in order to meet variable remuneration targets can also persist where sales staff chase sales in order to retain their job where their overall performance is in question.

AXA Investment Managers

Coeur Défense - Tour B - La Défense 4
100, esplanade du Général de Gaulle
92932 Paris La Défense Cedex
France

5 December 2012