

PRESS RELEASE

ESMA proposes remuneration guidelines for firms providing investment services

The European Securities and Markets Authority (ESMA) has published today a consultation paper on proposed Guidelines on remuneration policies and practices under the Markets in Financial Instruments Directive (MiFID). The Guidelines aim to strengthen investor protection by seeking to improve the implementation of the MiFID rules on conflicts of interest, and thereby preventing mis-selling of products.

The Guidelines will apply to investment firms, credit institutions, fund management companies when providing investment services, and to competent authorities. Firms must ensure that they have appropriate remuneration policies and practices in place, bearing in mind the obligation on firms to act honestly, fairly and professionally in the best interests of their clients.

Steven Maijoor, ESMA Chair, said:

“During the last decade we have seen a number of mis-selling scandals affect the retail investor across Europe, ranging from pensions to mortgages to investment products. A key factor identified as a driver for the promotion, recommendation and selling of unsuitable products is the presence of financial incentive schemes for sales staff that do not take account of the clients’ best interests.

“Today’s proposed remuneration guidelines for MiFID investment firms are key to ensuring that the pay and incentive structures for sales staff and their superiors do not create false incentives when selling financial products to retail investors. The consistent application of ESMA’s remuneration guidelines will help strengthen investor protection and achieving the same level of protection for Europe’s retail investors no matter where they invest.”

The key elements of the guidelines include:

General obligations

- Firms should ensure that remuneration is not paid in a manner that aims at circumventing the MiFID requirements and/or the ESMA guidelines.
- Firms should design and monitor their remuneration policies and practices to take account of the conduct of business and conflicts of interest risks that may arise.
- Firms should set up adequate controls on the implementation of their remuneration policies and practices to ensure that they deliver the intended outcomes.

Types of remuneration

- For the purposes of these guidelines, remuneration consists of all forms of payments or benefits provided directly or indirectly by firms to relevant persons involved in the provision of investment and/or ancillary services to clients.
- Remuneration can be divided into either fixed remuneration (payments or benefits without consideration of any performance criteria) or variable remuneration (additional payments or benefits linked to performance or, in certain cases, other contractual criteria).

Staff covered

- The focus of these guidelines is on the remuneration of all staff involved in the provision of investment and/or ancillary services. In particular, staff who can have a material impact on the service provided, on the conduct of business risk profile, and who can influence corporate behaviour. This includes:
 - client-facing front-line staff;
 - sales force staff, and/or;
 - other staff indirectly involved in the provision of investment services whose remuneration may create inappropriate incentives to act against the best interests of their clients

Next steps

The consultation period for the draft MiFID guidelines on remuneration closes on 7 December 2012. The final report, and the final guidelines, should be published by the second quarter of 2013.



Notes for editors

1. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA).
2. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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