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Milan, 19 October 2021

Consultation Paper: Guidelines on certain aspects of the MiFID II remuneration requirements

ANASF, the national Association representing financial advisors authorised to offer investment services outside the premises of financial intermediaries (*consulenti finanziari abilitati all'offerta fuori sede*), would like to express a few considerations regarding the subject of the consultation paper.

Q1. Do you agree that career progression is likely to have an impact on fixed remuneration and that, consequently, firms should define appropriate criteria to align the interests of the relevant persons or the firms and that of the clients in respect of all types of remuneration (not just in respect of variable remuneration)? Please also state the reasons for your answer.

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We agree that firms should provide ex ante criteria for defining the management of career progression of the relevant persons and the impact of such progression on remuneration, which must be linked to certain parameters.

The specificities of the different relevant entities subject to the framework should also be taken into account when defining those criteria. With regard to external distribution networks, which also make use of the financial advisor authorised to offer out-of-office services, the rules on relevant persons remuneration structure should be adapted, based on the coexistence of a fixed and a variable part of the remuneration, to the peculiarities of the remuneration of the financial advisors.

For example in Italy, Banca d'Italia, in Section IV "Remuneration policy for particular categories" of the Provisions of the Banca d'Italia on "Remuneration and incentive policies and practices in banks and banking groups" transposing the Directives on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, has equated the fixed part of the remuneration paid to "employees" with the "recurrent" remuneration of financial advisors which includes all the fixed and provisional remuneration determined by the volume of gross and/or net subscription and/or by the assets under management linked to the financial advisor and not having a specific incentive value. Firms should therefore define remuneration and incentive schemes for financial advisors, including in

relation to career progression, consistent with the nature and extent of the risks associated with their business.

Q2: Do you agree with the suggested approach on career progression? Please also state the reasons for your answer.

We agree with the suggested approach that should be in line with the provisions of the CRD Directives, on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, which are closely related with staff remuneration criteria.

Q3. Do you agree that, to align the interests of relevant persons or the firms with the interests of clients on a long term basis, firms should consider the possibility to adjust remuneration previously awarded through the use of ex-post adjustment criteria in their remuneration policies and practices (such as clawbacks and malus)? Please also state the reasons for your answer.

We agree in principle. We note, however, the need to apply the proportionality criterion provided for by the CRDV Directive which specifically identified the cases in which it is possible not to subject the variable component of remuneration to the rules of greater detail on deferment, payment in financial instruments and discretionary pension benefits. In particular, some rules will not apply to banks of smaller size and operational complexity and to staff whose annual variable remuneration does not exceed 50,000 euros and does not represent more than one third of its total annual remuneration (c.d. deductible). We consider that this amendment, which also affects the financial advisors entitled to offer out-of-office, falls perfectly within the purpose of the proportionality criterion established by the CRD, with a view to reconciling the need for coherent remuneration policies and respect for individual staff rights.

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Q4. Do you agree with the suggested approach on ex-post adjustment criteria? Please also state the reasons for your answer.

We agree with the identified approach, which is consistent with the existing legislation, with the clarification referred to in the previous question.

Q5. Do you agree with the added focus and suggested approach on the remuneration policies and practices for control functions and members of the management body or senior management? Please also state the reasons for your answer.

We agree, we believe that this approach is consistent with existing legislation and practices.

Q6. Do you believe that guideline 1 should be further amended and/or supplemented? Please also state the reasons for your answer.

The Guideline is well articulated, the purpose of de-marketing the financial sector is clear, with the aim of promoting professional and quality services for investors.

Q7. Do you agree that the remuneration policy should not only be reviewed on a periodic basis but also upon the occurrence of certain ad hoc events as described in new general guideline 2? Please also state the reasons for your answer.

The criterion identified cannot be regarded as absolute, but should be reconciled with the legislation on labour law for the protection of personnel and with the collective economic agreements envisaged in each country. Partial and codified changes may be permitted only in respect of the variable, non-recurring part of remuneration. Account should also be taken of the different categories of relevant persons, given that there are significant differences, for example between employees and financial advisors, including in relation to labour law.

Q8. Do you agree that the persons involved in the design, monitoring and review of the remuneration policies and practices should have access to all relevant documents and information to understand the background to and decisions that led to such remuneration policies and procedures? Please also state the reasons for your answer.

We agree that this practice is already widespread.

Q9: Do you believe that guideline 2 should be further amended and/or supplemented? Please also state the reasons for your answer.

We believe that Guideline 2 is consistent with the control objectives it sets itself. We need co-responsibility for all the people involved in the process.

Q10. Do you agree with the amendments made to guideline 3? Please also state the reasons for your answer.

No, we do not agree with the inclusion in Guideline 3 of point 49 and point 52 d), believing that these provisions would dismantle a strongly rooted and efficient distribution model, with clear systemic risk. Although we are aware that the path towards de-commercialisation and subsequent professionalisation of the distribution model has begun, we believe that this process should be initiated gradually and only after thorough analysis, as proposed by Your Authority in reference to the hypothesis of the European Commission to evaluate the introduction of the ban on inducements, a theme strongly related to the subject in question.

In our opinion, what is needed in the immediate future is maximum transparency of the costs of the infrastructure, which should be consistent with the activity carried out. The coordination of distribution structures is necessary to carry out the activities efficiently and effectively, to protect the saver who must receive a quality service.

With the utmost transparency, the costs of intermediary structures, including staff remuneration, should be highlighted and disclosed clearly to the client, including the percentage of costs attributable to the remuneration of financial advisors. If costs are transparent and clear, also clients are protected. Moreover, even traditional banks, similar to any firm made up of hundreds, if not thousands, of individuals, have coordinated structures, with operating subsidiaries, managers, area managers, which are responsible for coordinating the activities of the structure in order to ensure an average quality standard for clients.

Third party nature of distribution is not a negative element, on the contrary it is a strong point that makes the service more professional, tending to solve possible conflicts of interest; also, thanks to the knowledge and skills of financial advisors who have direct contact with clients and

who play a crucial role for investors, considering that the advisory service has become essential for citizens, not least for educational purposes.

We therefore call for the points mentioned to be removed, pending in-depth assessments and analyses, introducing transparency clauses and promoting, rather, as good practice, the use of efficient distribution structures that are essential and not redundant for the operation of firms, to allow a quality service for users.

Q11. Do you believe that guideline 3 should be further amended and/or supplemented? Please also state the reasons for your answer.

As stated in response to the previous question, we believe that points 49 and 52 d) should be removed from Guideline 3 and transparency clauses should be inserted in relation to the costs of the distribution structure, a structure that must be appropriate to the activities to be carried out in order to ensure the efficiency of the service provided to clients.

12. Do you agree with the deletion of Section V.III. of the 2013 guidelines? Please also state the reasons for your answer.

We agree, considering that the provisions of the Guidelines are now transposed into Mifid II.

Q13. Do you agree with the arguments set out in the cost-benefit analysis in Annex IV? Do you think that other items should be factored into the cost-benefit analysis and if so, for what reasons?

We believe that the cost-benefit analysis carried out is not entirely realistic. An increase in compliance costs inevitably results in an increase in business costs which, in all probability, will then be borne by the final client.

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ANASF, in thanking you for your attention, is at your disposal for any queries you may have.

Best Regards,



Luigi Conte
ANASF President