**ESMA DISCUSSION PAPER ON MIFID II INVESTOR PROTECTION TOPICS LINKED TO DIGITALISATION**

**– CNCEF PATRIMOINE**

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**Online disclosures**

**1. Do you already layer information provided to (potential) clients?**

As a preliminary remark, our professional association representing financial investment advisors (CNCEF) is acutely aware of the digitalization challenges and opportunities among our members. We actively engage in understanding and addressing the digital transformation in the financial advisory sector, recognizing its profound impact on our members' operations and client interactions. Our commitment extends to supporting our members through this transition, ensuring they harness digital tools effectively while maintaining compliance and enhancing client service.

Moreover, regarding our question, we consider that the members of the association necessarily engage in information layering due to the volume of regulatory information that must be communicated to their clients.

**2. Do you create bespoke content and information for existing clients based on their preferences, risk profile and/or investment objectives?**

As financial investment advisors, our members necessarily produce bespoke content and information, tailored either through digitalized services or during face-to-face meetings, where personalized advice and direct interaction remain paramount. This customization caters to the unique needs of each client.

**3. What type of information would you deem vital to show in the first layer of information to investors with regard to the different instruments you offer?**

The information to be presented to clients by our members is regulated, and we do not have an opinion on whether certain information is more vital than others.

**4. What type of information do you observe your clients treat as the most important? (if known)**

Feedback from our members indicates that the most important information for their clients concerns the characteristics of the financial products, the associated risks, and the anticipated returns.

**5. Which information on costs and charges ‘belongs in the first layer’?**

Information on costs and fees is regulated, and their presentation is governed by the regulations. Therefore, if information on costs and charges belongs in the first layer, it is because the regulation has stipulated it as such.

**6. Do you provide interactive or other graphic representations of information on financial instruments or investment services to your clients? Do clients perceive them as useful aids?**

Feedback from our members indicates that some of them utilize interactive or other graphic representations of information on financial instruments or investment services for their clients. This is typically formatted using software designed for financial investment advisors.

**7. Should the vital information need to be the same for all** **MiFID financial instruments, or can it be different depending on the type of instrument? If so, how?**

Critical information regarding MiFID financial instruments depends on the applicable regulations, particularly the positions of the AMF on the matter. Therefore, we do not have any specific positions on this vital information.

**8. Do you already provide visual aids (support) to (potential) clients in order to help them better understand complex financial concepts, for example the use of a glossary? If you do, please mention which and explain.**

The association raises awareness among its members to make financial products understandable to their clients, including the most complex ones. However, we do not know if our members use visual aids to make these products more accessible to clients.

**9. How do you measure the effectiveness of the online disclosures you provide to clients? Do you identify problems clients encounter with language or structure of your disclosures? What are the most common issues identified?**

We have not received feedback from our members on this topic.

**10. What is your positive and negative experience with layering information?**

Our members believe that the regulatory nature of information layering is overly burdensome and does not allow clients to fully grasp product characteristics. Consequently, the association welcomes the consultation, which aims to explore a more accessible organization of information to be provided to clients.

**Marketing communications**

**11. Do you currently have an overall register of marketing practices used? If you do, are there practices you follow-up on more frequently and if so, how do you decide which practices you follow-up on?**

The members of the association, who are typically small structures or individual businesses, do not maintain specific records regarding their marketing and communication policies.

**12. How do you ensure that marketing communications only reach the intended target market (especially in the case of higher risk/higher complexity products)?**

The marketing communications of association members regarding the products they distribute are conducted in accordance with applicable regulations, particularly considering the position-recommendations of the AMF and the ACPR regarding promotional communication, including through digital channels.

**13. How do you monitor the effectiveness of your marketing practices? For example, do you use targets such as clicks, views and/or number of complaints or how many new clients are part of the appropriate target market? Or do you test their effectiveness through consumer testing?**

Association members, primarily small structures, generally do not have dedicated services to track their marketing policies. However, the software tools they utilize effectively enable them to monitor their client relationships, notably through CRM tools.

**14. Do you review your marketing practices if complex and risky products are seemingly marketed outside the determined target market for these products?**

The marketing of risky/complex products by association members is conducted in accordance with applicable regulations. As a professional association, we are unaware of whether the marketing of products outside target markets any implications on the marketing policies has possibly implemented by our members.

**15. Do you have in place controls dedicated to marketing practices targeted to vulnerable persons to ensure those practices are adequate? If so, please explain.**

We offer association members a specific procedure regarding the marketing of products to vulnerable persons. This procedure includes elements on promotional communication aimed at these vulnerable persons.

**Content Marketing and Social Media**

**16. What kind of educational material do you produce and publish?**

We offer educational material primarily to our members, which can take the form of newsletters or organizing webinars on products distributed by the members or on the applicable regulations.

**17. Do you have educational material available to investors in which you actively promote specific instruments and/or firm(s)?**

As a professional association, we do not have educational material available to investors in which we actively promote specific instruments and/or firms.

**18. Do you use content marketing on social media or in other types of video material?**

As a professional association, we utilize social media for institutional communications as well as for organizing webinars to contribute to the ongoing training of our members.

**Affiliates and Social Media**

**19. Do you make use of affiliates or affiliate marketing? Why, and if not, why not?**

As a professional association, we do not have affiliates or engage in affiliate marketing. Financial advisors who are members of the professional association generally do not resort to this type of marketing solution. This type of marketing solution is more characteristic of other entities, such as trading platforms, for example.

**20. What kind of process do you follow to select/vet/approve the use of an affiliate? What internal functions are involved (please specify)?**

We have no comments.

**21. Based on which criteria do you select affiliates?**

We have no comments.

**22. How do you monitor the compliance of the communications and practices used by affiliates with the applicable requirements?**

We have no comments.

**23. If you remunerate affiliates, how is the remuneration structured? And for what type of action or result do you remunerate the affiliate (e.g., for generating clicks, leads or opening of accounts or a minimum deposit)? And how do you assess this is in the interest of your clients?**

We have no comments.

**24. Do you ensure affiliates properly disclose their relationship with the firm and act based on the MiFID II rules?**

We have no comments.

**25. What kind of content marketing do you prepare and publish? Is it prepared by relevant professionals in this area?**

We have no comments.

**26. Do you pay finfluencers or affiliates soliciting clients only in the success fee formula? How do you measure success?**

We have no comments.

**Digital Engagement Practices (including gamification)**

**27. Do you have a system in place to avoid clients from trading excessively, if so what kind? For example, do you contact or even (automatically) warn users when they trade on a very frequent basis?**

We have no comments.

**28. Do you incentivise your clients to log-in on a daily basis? For instance, by pop-up messages, frequent email updates etc.?**

We have no comments.

**29. Do you use gamification techniques for client engagement? If so, what type of gamification techniques do you use and for what purpose (training, educational content, subscription process, other – if so, please explain)?**

We have no comments.

**30. If you do not use above mentioned incentives and gamification techniques, have you observed problems or difficulties with any of them?**

We have no comments.

**Choice architecture and nudging**

**31. If you use nudges, please provide information on the process implemented to determine, validate and control these nudges.**

We have no comments.

**32. Do you review the design of the choice architecture of your interface? If so: How often do you review it? What are the reasons to review it? Who is involved in such review?**

We have no comments.

**33. What would be reasons for you to change the design of the choice architecture of your interface?**

We have no comments.

**34. Do clients give feedback on the design of the choice architecture? If so, what kind of feedback do you receive and how do you follow up?**

We have no comments.

**35. Do you observe increased trading activity induced by the use of the choice architecture?**

We have no comments.

**Push notifications.**

**36. What kind of push-notifications do you send?**

We have no comments.

**For example, what type of information is included, are the push notification bespoke to the consumer?**

We have no comments.

**Dark Patterns**

**37. Which examples of dark patterns have you encountered?**

We have no comments.

**38. Do you use, or have you encountered any positive nudging in the interest of the client? Could you provide some examples?**

We have no comments.

**39. Have clients complained of difficulties related to the online interface? For example, difficulties in closing their accounts?**

We have no comments.

**Open question**

**40. Do you have any (other) observations with regard to the topics covered under this discussion paper that you would like to share with ESMA**

We have no comments.