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The European Federation of Financial Services Users
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Conflicts of interests in financial advice: the European Regulator as an unintentional ally of the big banks?

Brussels, 11 July 2014 - In an ideal world there would be no "inducements", and product providers would definitely not be paying commissions – whether directly or indirectly- to so-called "advisors".

Instead these commissions would be paid by the client and/or by "Financial Security" (not unlike Social Security). This means applying to "financial health" what already exists in the field of "physical health", where fully independent advisors - called doctors - are paid by the clients (patients) and/or by "Social Security".

But we are not in an ideal world, we are in the real world. In the real Continental European world, ESMA's proposal 10i for MiFID II implementation[1] looks like a further boost to the big integrated salaried networks (the big retail banks in particular), typically "advising" and selling only (all too often subpar) in-house products. These are by far the dominant retail distributors[2], but they are de facto - whether one likes it or not - exempt from the MiFID inducements rules.

Those rules are therefore most likely to hurt only the much smaller "open architecture", multi-provider and capitalistically independent segment of the retail market[3], since more than 70 % of their remuneration comes directly from "inducements" (more often than not for salaried networks this is 100 %, but indirectly and therefore most unfortunately off the radar for MiFID and ESMA). ESMA proposal 10i is very likely to kill off this already small "open architecture" segment as well as many independent asset managers at the same time.

Furthermore - supposing that open architecture advisors would then try to have clients pay for advice - the measure would not make any sense in terms of taxation (at least in

[1] *"A fee, commission or non-monetary benefit may not generally be regarded as designed to enhance the quality of the relevant service to the client if: i. it is used to pay or provide goods or services that are essential for the recipient firm in its ordinary course of business"*

[2] More than 80% in France for example

[3] Less than 10% in France for example

a big market like France) since fees that are not deductible from investment income (contrary to existing inducements) will also be subject to VAT.

We ask the European Regulator to at least find a way to address the bigger conflict of interest issues in relation to advice provided by the dominant salaried networks in Continental Europe.

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