

ESMA

CS 60747 - Rue de Grenelle
75345 Paris Cedex 07, France

Milan, 3 September 2019

ESMA Call for evidence - Impact of the inducements and costs and charges disclosure requirements under MiFID II

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 bring to the attention of the Authority some evidence and considerations on the Italian context, which could contribute to the assessment of the impact of the inducements, costs and charges disclosure requirements under MiFID II.

1. Disclosure requirements for inducements

With regard to inducements disclosure requirements, ANASF would like to bring evidence and considerations on questions B, D, E and H.

The examination of some reports provided to clients in these months shows that information on inducements has generally been included in costs and charges disclosure. In a lot of cases the amount of third party payments has been shown in tables where, after the disclosure of overall costs expressed as a monetary amount and as a percentage (and, in many of these cases, also the breakdown of single cost items), inducements are clearly disclosed both as a monetary amount and as a percentage. The information on inducements is mainly provided at an aggregated level.

In Italy the service of investment advice on an independent basis is still scarcely widespread, because the vast majority of financial intermediaries have chosen to offer mainly the service on a non-independent basis, which is provided in accordance with MiFID II disclosure and quality requirements.

2. Costs and charges disclosure requirements

With regard to costs and charges disclosure requirements, ANASF would like to bring evidence and considerations on questions I, J, K, M, P and Q.

While it appreciates the principle of transparency which underpins MiFID II costs and charges disclosure requirements, the Association points out, as it has done on previous occasions, that the information on costs is not the only significant element for the choice and subsequent evaluation of a financial service or product. Indeed, it is also necessary to consider the qualitative aspect of the service, which rests on elements such as the ability

to listen to and understand the characteristics and needs of the clients, the range of solutions available to the investor, as well as the ability to explain, in a clear, complete and in-depth way all the significant elements. Financial advisors, being the point of reference for the investor throughout the different steps of the investment process, have always been contributing to clients' knowledge of all the elements which are determinant factors for the choice of financial services and products, including the information on costs. From this viewpoint the application of MiFID II has represented neither a new development nor a criticality for financial advisors.

With regard to the identification of a methodology for the presentation of costs which can foster clients' understanding, ANASF highlights the inherent criticality of the use of future projections which try to forecast the investment performance, net of costs. For instance, if a client had been provided with an ex-ante projection of the impact of costs on return for the year 2018 using cost figures for the year 2017, this client would have been given misleading information, not corresponding to the expectations created by relying on 2017 figures. This criticality makes it necessary to tackle the problem of the variability of figures over time, including costs. The Association thus proposes to show in the report for the client cost figures for a time sample which should be long enough, e.g. the last 5 years. This type of presentation would make it possible to normalize cost figures, enabling customers to understand the variability of these figures – which can vary over time, first of all on the basis of market trends – and correctly interpret the ex-ante projection of the impact of costs on return. A graphical presentation (area or bar chart) would facilitate clients' understanding.

As for the relationship with PRIIPs, considering the evidence from Italy ANASF confirms what is stated in the Call for evidence: even where the MiFID II and PRIIPs/UCITS cost disclosures overlap, investment firms do not rely on the information available in KIDs or KIIDs for their MiFID II cost disclosures. A possible explanation lays in the “provisional” nature of KID regulation, especially with regard to UCITS: KIDs are not yet considered a definitive source of information. The KID section illustrating the costs, where updated every year, could become the means to disclose the costs to the client. Once the proposed revision of the KID regulation is completed, a greater synergy between the MiFID II and KID regimes would be possible, with the latter becoming also the principal source of information on costs.

We do not consider it appropriate to allow more flexibility to disapply certain of the costs and charges requirements to professional clients and eligible counterparties, as we believe that the current regime is complete and adequate for the protection of all categories of clients.

In relation to telephone trading, we think that the only possible option is the second one envisaged in Q&A no. 28 of ESMA's Q&As on MiFID II and MiFIR investor protection and intermediaries topics: disclose the ex-ante information on costs over the phone prior to the provision of the service and simultaneously provide the same information in a durable medium or through a website.

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

Best Regards



Maurizio Bufi
ANASF President