

MEMO# 20848

February 7, 2007

Draft ICI Comment Letter on CESR Public Consultation on Inducements Under MiFID

[20848]

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TO: EQUITY MARKETS ADVISORY COMMITTEE No. 4-07
INTERNATIONAL COMMITTEE No. 2-07
INVESTMENT ADVISERS COMMITTEE No. 2-07
SEC RULES COMMITTEE No. 11-07 RE: DRAFT ICI COMMENT LETTER ON CESR PUBLIC CONSULTATION ON INDUCEMENTS UNDER MIFID

In late December, the Committee of European Securities Regulators (CESR) launched a public consultation on the treatment of inducements, including soft commission and bundled brokerage arrangements, under the Markets in Financial Instruments Directive (MiFID). [\[1\]](#) In the consultation, CESR noted that it intends to carry out a work program so that it can understand whether it is necessary to have a common approach across the European Union to the supervision of soft commission and bundled brokerage arrangements. In connection with this work program, CESR asks for input on the impact of Article 26 of the MiFID Level 2 Implementing Directive on current soft commission and bundled brokerage arrangements and opinions as to whether it would be helpful for CESR to develop a common regulatory approach in this area. The Institute has prepared the attached draft comment letter, which is briefly summarized below.

Comments are due to CESR by February 9, 2007. We will hold a conference call on Thursday, February 8, 2007 at 1:00 p.m. Eastern time to discuss the letter. The dial-in number is 877-601-3547 or 210-234-0034 and the passcode is 59285. Please send an e-mail to Ruth Tadesse at rtadesse@ici.org to let us know if you plan to participate on the call. If you have comments, but are unable to join the call, please provide your comments

to Glen Guymon at gguymon@ici.org or 202-326-5837 before the time of the call.

The draft letter urges CESR to recognize that conflicts of interest in soft commission arrangements can be effectively managed and that continuing to allow investment managers the choice to use soft commission and bundled brokerage arrangements is consistent with the requirements of Article 26 of the MiFID Level 2 Implementing Directive. The letter provides a qualified endorsement of a common supervisory approach with respect to regulations that limit the types of services that can be obtained with soft commissions. The letter also expresses concern about any approach that would mandate “unbundled” disclosure of bundled commissions and urges CESR to approach regulation mandating “unbundled” disclosure with caution.

Glen S. Guymon
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endnotes

[1] CESR/06-687 (December 2006), available at <http://www.cesr-eu.org/popup2.php?id=4085>. See also Memorandum No. 20729, dated December 27, 2006.

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