



Secretariat of the  
Swiss Federal Banking Commission  
Attn Dr Oliver Zibung  
Via email

oliver.zibung@ebk.admin.ch

Zug, 14. November 2008

**Consultation on "Incentive systems and conflicts of interest regarding the distribution of financial products"**

Dear Dr Zibung,

please find below the views of the Swiss CFA Society (SCFAS) on the discussion paper on distribution compensation. The Swiss CFA Society was founded in 1996 and represents nearly 1800 Chartered Financial Analyst® (CFA®) Charterholders based in Switzerland. The SCFAS is a member of the globally active CFA Institute ([www.cfainstitute.org](http://www.cfainstitute.org)), with which we coordinate our advocacy activities.

Members of the CFA Institute and the SCFA commit to the CFA Institute [Code of Ethics and Standards of Professional Conduct](#). Standard VI deals with conflicts of interest and requires from its members the disclosure to clients, prospective clients, and employer of any conflict of interest as well as the payment of referral fees. Equally applicable are the [Soft Dollar Standards](#), providing that soft compensations belong to the client, must be disclosed and may only be used in fulfillment of duties to the client.

We appreciate the detailed and comprehensive description and analysis of the whole distribution value chain for financial products in Switzerland done by the SFBC. However, we would have liked disclosure of the list of institutes that were part of the working group and which have contributed to the discussion paper. Also, the report frequently refers to the Commission's findings in ways which do not permit any judgment as to the validity of those findings.

We have one comment to point 5.1.2. d of the discussion paper. The last sentence assumes that there is no distribution compensation (retrocession) on ETFs. In practice, retrocessions are also paid on ETFs. Given the lower management fee for ETFs, the absolute level is below retrocessions on funds.

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Subsequently, we comment on the questions asked in the discussion paper

1. *What are the practical implications of incentive systems and conflicts of interest regarding the distribution of financial products for the intermediaries involved in distribution and for institutional/private investors?*

As described in the report, in the asset management business conflicts of interest can come up at many levels and are difficult to avoid. Distribution compensation is also an integral part of today's distribution business models in Switzerland. In line with the CFA Institute Standards of professional conduct, we believe that transparency is the best way to handle such situations. Today clients are not always aware of incentive systems (retrocessions) and possible conflicts of interests. Better disclosure is needed. In this respect it is important that the obligation to disclose referral fees and conflicts of interest applies to all intermediaries, irrespective of the supervisory regime they are subject to ("same business, same rules").

2. *Should the SFBC in its capacity as the supervisory authority for banks and securities markets devote more time to these issues and to the distribution of financial products and conditions for distribution partners generally?*

As conflicts of interest or distribution compensation can have negative effects for the clients of banks, security dealers and other intermediaries, we think that the SFBC should devote time to these issues. We do not believe, however, that more regulation will necessarily be better.

3. *Should it adopt the most «non-product-specific» approach possible to ensure uniform treatment for all financial products which are equivalent from an investor perspective?  
With a view to the impending integration of banking, securities and insurance supervision in the new FINMA authority: Should a non-product-specific approach of this kind also include insurance products?*

In our view, a treatment of the issues of distribution compensation and conflicts of interest on a product level is not possible in a meaningful manner. A product specific approach only makes sense, when all competing products are treated the same way.

Asset management frequently bundles several products so that a disclosure on the whole services are more meaningful for the client. In addition, the level of retrocession of a product depends not only on the management fee, but also on the volume/expected volume of the intermediary invested in this product. This means that the level of retrocession is not the same for all intermediaries. A meaningful disclosure on the product level is therefore not feasible.

From the point of view of consumer transparency, distinct disclosure regimes for asset management products and insurance based products are not reasonable

when they concern the same or very similar products. Also, conflicts of interest will appear in the insurance distribution channel, which not to address would be a disservice to insurance clients.

4. *To what extent is action require under supervisory law, and which of the approaches presented in Chapter 8 should the SFBC continue to pursue where necessary? Are there any others?*

The best solution to reduce conflicts of interest would be, if the distribution fee is directly paid by the client. Management fees of asset management products could be reduced and the level of the distribution fee can be adapted to the client requirements. On the other hand, we know that these compensation models had no success in the past. This may, however, be due to a lack of price competition in the private clients segment due to low price transparency.

The approach proposed by the SFBC to increase transparency at the “point of sale” seems a feasible way. In addition, this approach is in line with the European MIFID regulation.

The minimum requirements defined by the SFBC will add to the transparency for the client. However, we would insist that the clients should receive automatically (and not only on request) an annual statement with all fees the asset manager has received from a third party and which are linked to his account. The SFBC should give the institutes some time (e.g. 3 years) to implement this measure, as most probably changes in IT-systems are required.

A successful implementation of the suggested approach is only possible if the codes of conduct of all the professional associations of the financial intermediaries reflect these minimum standards.

Please do not hesitate to get in touch with us if you have any follow-up questions.

Yours sincerely,  
**Swiss CFA Society**

Sig. Ulrike Kaiser-Boeing, CFA  
Board Member

Sig Christian Dreyer, CFA  
Board Member

Hyperlinks referred to:

<http://cfainstitute.org/centre/codes/ethics/index.html>

<http://cfainstitute.org/centre/codes/softdollar/index.html>