BlackRock.

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**European Securities and Markets Authority**
**103 rue de Grenelle**
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**Paris Cedex 07**
**France**

Submitted online at www.esma.europa.eu

**RE: ESMA's call for evidence on the impact of the inducements and costs and charges disclosure requirements under MiFID II**

Dear ESMA

BlackRock[1] is pleased to have the opportunity to respond to the call for evidence on the impact of the inducements and costs and charges disclosure requirements under MiFID II, issued by ESMA.

BlackRock supports a regulatory regime that increases transparency, protects investors, and facilitates responsible growth of capital markets while preserving consumer choice and assessing benefits versus implementation costs.

We welcome the opportunity to comment on the issues raised by this call for evidence and will continue to contribute to the thinking of ESMA on any issues that may assist in the final outcome.

We welcome further discussion on any of the points that we have raised.

Yours faithfully,

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[1] BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

## Executive summary

We welcome the opportunity to give feedback on the disclosure of costs and charges under MiFID II.

**Need for a common framework for the disclosure of the transaction costs which moves away from the arrival price or slippage methodologies**

As we noted in our 2018 ViewPoint. Disclosing Transaction Costs - The need for a common framework we are faced with requests to provide costs and charges information, particularly in relation to transaction costs, on the products we manage in a variety of different formats and using different methodologies. We recommend moving away from the slippage methodology to modified half-spread methodology with additional disclosure on the governance firms have put in place to manage transaction costs to reflect existing governance requirements for best execution.

**Use of the European MiFID Template**

We also note that the asset management industry and their distributors have built a comprehensive infrastructure for transmitting costs and charges information using the European MiFID Template (EMT). This is subject to a formal governance process under the umbrella of FINDatEx between EFAMA, EBF, Insurance Europe, ESBG, EACB and EUSIPA. The templates have been agreed after extensive discussion by all parties and after significant testing of fields and delivery mechanisms. We encourage ESMA to work with FinDatEx to ensure that any recommended changes to the current disclosure regime can be fully integrated into industry standard templates with sufficient lead time for appropriate testing. As such we recommend minimising the use of ESMA Q&A to address issues of costs disclosure as this process brings uncertainty into what are now highly automated delivery mechanisms.

**Use of country or client specific reporting templates especially for professional clients**

We note that, in addition, in a number of jurisdictions institutional clients require specific reporting on costs and charges by using specific costs templates (for example there are a number of pension fund templates in jurisdictions such as the UK and Netherlands, designed to meet the needs of specific client segments such as pension funds). We therefore support the ability to disapply the cost disclosure requirements for professional clients and eligible counterparties to allow them to receive disclosures which comply with alternative national regulatory requirements or standard industry templates.

**Responses to questions**

**A: What are the issues (if any) that you are encountering when applying the MiFID II disclosure requirements in relation to inducements? What would you change and why?**

No comment.

**B: Do you use the ex-ante and ex-post costs and charges disclosures as a way to also comply with the inducements disclosure requirements? At which level do you disclose inducements: instrument by instrument, investment service or another level (please specify how)?**

No comment.

**C: Have you amended your products offer as a result of the new MiFID II disclosure rules on inducements? Please explain.**

BlackRock has made available share classes to investors which do not include retrocessions to allow clients to invest who cannot retain retrocessions such as discretionary portfolio managers or independent advisors or to comply with the requirements of jurisdictions where retrocessions are not payable on the sale of investment funds such as the UK or Netherlands.

**D: Has the disclosure regime on inducements had any role/impact in your decision to provide independent investment advice or not?**

Not applicable to BlackRock; as an asset manager as we do not provide independent investment advice. We have observed that distribution clients who are independent financial advisers are focusing increasingly on asset allocation rather than advising on individual products.

**E: How do you apply ex-ante and ex-post disclosures obligations under Article 24 (9) of MiFID II in case of investment services provided on a cross-border basis? Do you encounter any specific difficulty to comply with these requirements in a cross-border context? Please explain.**

We do not have specific concerns. All our clients (including cross-border clients) receive our disclosure document.

**F: If you have experience of the inducement disclosure requirements across several jurisdictions, (e.g. a firm operating in different jurisdictions), do you see a difference in how the disclosure requirements under Article 24(9) of MiFID II and Article 11(5) of the MiFID II Delegated Directive are applied in different jurisdictions?**

No additional comment.

**G: Would you suggest changes to the disclosure regime on inducements so that investors or potential investors, especially retail ones, are better informed about**

**possible conflicts between their interests and those of their investment service provider due to the MiFID II disclosure requirements in relation to inducements?**

Many asset management products contained embedded commission payments to distributors which vary by distribution channel or by distributor. For end investors to assess the value they are receiving from the product manufactures as opposed to the value of the services they receive from their advisor or distributor MiFID requires that the costs of commissions are fully broken out in end client disclosures. There are a number of approaches to providing this information and we recommend that as part of its supervisory convergence process ESMA work with NCAs to show examples of best practice which encourage effective comparison of performance on a product by product basis and value add of services on a service by service basis.

We also query whether the best practice is to make these disclosures on an instrument by instrument basis or on an aggregate basis where advice is being provided on a whole portfolio given that end clients will look to assess performance and risk across a whole portfolio rather than on the basis of multiple individual securities.

**H: What impact do you consider that the MiFID II disclosure requirements in relation to inducements have had on how investors choose their service provider and/or the investment or ancillary services they use (for instance, between independent investment advice and non-independent investment advice)?**

Our observations are that these requirements have had a limited impact and the choice of type of provider and shift in distributor business service models is driven more by distributor economics and cost pressures rather than by investor demand at this stage.

**I: What are the issues that you are encountering when applying the MiFID II costs disclosure requirements to professional clients and eligible counterparties, if any? Please explain why. Please describe and explain any one-off or ongoing costs or benefits.**

No comment.

**J: What would you change to the cost disclosure requirements applicable to professional clients and eligible counterparties? For instance, would you allow more flexibility to disapply certain of the costs and charges requirements to such categories of clients? Would you give investment firms' clients the option to switch off the cost disclosure requirements completely or apply a different regime? Would you distinguish between per se professional clients and those treated as professional clients under Section II of Annex II of MiFID II? Would you rather align the costs and charges disclosure regime for professional clients and eligible counterparties to the one for retails? Please give detailed answers.**

The cumulative effect of costs on returns should be capable of being disapplied with professional clients and eligible counterparties regardless of the investment service being provided and of the underlying financial instrument.

We would also be in favour of allowing investment firms' clients the option to switch off the cost disclosure requirements completely. This would allow clients to choose another regulatory regime or industry standard for cost disclosure and avoid multiple levels of reporting. We note that professional clients often have specific requirements to meet regulatory or internal risk control requirements. The FinDatEx project, for example, includes specific reporting for insurance companies subject to Solvency II.

It may, however, make sense to allow elective professional clients to choose to retain certain retail standards of disclosures.

We do not support aligning the cost and disclosure regime for professional clients and eligible counterparties to the one for retail customers given the considerable gap in knowledge and experience between retail and per-se professional clients or eligible counterparties.

**K: Do you rely on PRIIPS KIDs and/or UCITS KIIDs for your MiFID II costs disclosures? If not, why? Do you see more possible synergies between the MiFID II regime and the PRIIPS KID and UCITS KIID regimes? Please provide any qualitative and/or quantitative information you may have.**

Our experience is that our distributors prefer to use an automated process to provide MiFID II cost disclosures and rely on data provided using the EMT.

There are a number of reasons why distributors do not rely on the UCITS or PRIIPs costs disclosures:

- The ongoing charges figure in the UCITS KIID does not include transaction costs and performance fees so distributors prefer to use the EMT which includes these data points. In addition, the UCITS KIID does not break out embedded commission payments and this has to be done by the distributor depending on agreement with the end client
- The PRIIPs reduction in yield (RIY) methodology levels the costs over the recommended holding period. MiFID II requires a presentation of entry and one-off exit costs in the year in which they are incurred so the RIY approach does not allow distributors to meet their MiFID obligations.
- A number of distributors have also raised concerns with receiving transaction costs using the PRIIPs arrival price methodology, especially where it generates negative transaction cost data and we see increasing demands for data on transaction costs to be provided in a half-spread format.

In particular, transaction cost disclosures should be judged according to their effectiveness in helping investors make better decisions about their investments. For both new and existing portfolios, the disclosures should serve as a tool for assessing how efficiently a fund manager achieves their stated objective. Additionally, disclosures should explicitly state which costs are already included in performance figures to avoid misrepresenting their impact. We have noted confusion by clients in a number of markets as to the purposes of transaction cost disclosures and how they work with pre-existing measures of disclosure such as Total Expense Ratio or Total Cost of Ownership. This highlights the importance of consistency and comparability in the metrics used.

- Realistically there is no one simple formula that can adequately represent the costs of trading across multiple strategies and asset classes. Instead we recommend fund managers use a modified half spread methodology as the concept most suited for providing transaction cost disclosure to investors; when well executed it delivers the highest degree of consistency and comparability. Existing spread methodologies should be enhanced by incorporating relevant factors that influence trading costs.

- Slippage metrics are not suited to transaction cost disclosures, given their technical nature, exposure to market volatility, and sensitivity to underlying data, which leads to repeated instances of negative transaction costs even when averaged over the three year period required under PRIIPs. However, they are an important tool for portfolio managers and traders to improve investment performance.

- To ensure full accountability and transparency to investors, fund managers should have appropriate governance and oversight controls in place overseeing fund transaction cost reports. Investor disclosures should include information of the material factors and assumptions used when reporting on transaction costs. We recommend fund managers adopt a governance and supporting disclosure framework based on the recently enhanced MiFID II best execution rules.

**L: If you have experience of the MiFID II costs disclosure requirements across several jurisdictions, (e.g. a firm operating in different jurisdictions), do you see a difference in how the costs disclosure requirements are applied in different jurisdictions? In such case, do you see such differences as an obstacle to comparability between products and firms? Please explain your reasons.**

We see the development of different market conventions, particularly in relation to whether PRIIPs costs disclosures can be used for MiFID II cost disclosure and different approaches to using slippage and half spread methodologies. The differences in methodologies is operationally burdensome and undermines the regulatory policy intention of putting investors in a position to compare products across providers. While cost is an important indicator, ultimately performance net of costs should be the key metric for comparability purposes, not transaction costs in and of themselves.

**M: Do you think that MiFID II should provide more detailed rules governing the timing, format and presentation of the ex-ante and ex-post disclosures (including the illustration showing the cumulative impact of costs on return)? Please explain why. What would you change?**

We do not believe that there will be added value in additional rules in these areas.

End-investors would benefit from clearer attribution of costs which identifies the recipients of any charges and costs they pay (for example, fund managers, brokers, distributors, other intermediaries such as platforms, and tax authorities). Transaction cost disclosures could also be improved by providing separate information on the frequency of trading and cost of trading separately.

As noted above we do not support the use of a PRIIPs-style RIY methodology as it does not assist distributors in explaining how costs have been incurred or compatibility between different products.

**N: For ex-ante illustrations of the impact of costs on return, which methodology are you using to simulate returns? Or are you using assumptions (if so, how are you choosing the return figures displayed in the disclosures)? Do you provide an illustration without any return figure?**

We believe it is simpler to assume a zero net return when running costs disclosures thereby avoiding the complexity of future performance scenarios as seen in the PRIIPs Regulation.

**O: For ex-post illustrations of the impact of costs on return, which methodology are you using to calculate returns on an ex-post basis (if you are making any calculations)? Do you use assumptions or do you provide an illustration without any return figure?**

We display a return figure consistent with our periodic reports to clients together with a breakdown of costs.

**P: Do you think that the application of the MiFID II rules governing the timing of the ex-ante costs disclosure requirements should be further clarified in relation to telephone trading? What would you change?**

We support the comments put forward by the Investment Association in this respect.

**Q: Do you think that the application of Article 50(10) of the MiFID II Delegated Regulation (illustration showing the cumulative impact of costs on return) helps clients further understand the overall costs and their effect on the return of their investment? Which format/presentation do you think the most appropriate to foster clients' understanding in this respect (graph/table, period covered by the illustration, assumed return (on an ex-ante basis), others)?**

We do not believe there is significant benefit at this stage in moving beyond the presentation of aggregated costs and charges in currency amounts and in percentages. We believe it is preferable to show the effect of costs without reference to an artificial rate of return.

**R: Are there any other aspects of the MiFID II costs disclosure requirements that you believe would need to be amended or further clarified? How? Please explain why.**

We encourage European policy makers to take action to harmonise the competing disclosure rules present in the market, to minimize investor confusion. Whatever methodology is finally agreed upon, all instruments and all transaction types should be included without exemptions. The designated methodology should treat all instruments as consistently as possible to ensure that costs arising from different instrument choices such as swaps, ETFs, or futures are comparable. Harmonisation will improve transparency and help investors make unbiased investment decisions.

**Conclusion**

We appreciate the opportunity to address and comment on the issues raised by Call for Evidence and will continue to work with ESMA on any specific issues which may assist it.