

**From:** [REDACTED] (MARKT)  
**Sent:** 30 January 2013 10:17  
**To:** MARKT LIST G3; [REDACTED] (MARKT)  
**Subject:** Meeting with Wirttschaftskammer Österreich (WKO) re Shadow banking and MiFID/R (investor protection)

Maite Fabregas, [REDACTED], [REDACTED] and [REDACTED] met with Wirttschaftskammer Österreich (WKO) re Shadow banking and MiFID/R (investor protection).

As regards shadow banking, they raised the concern that the term "shadow banking" has a negative connotation and that an alternative label should be used. They also asked for the status as regards legislative initiatives relevant to the industry.

As regards MiFID/R, they raised a number of issues concerning investor protection:

**Inducements:**

- Austrian consumers are accustomed to a system of not paying for advice (recent studies confirm this conclusion). Therefore, it would be helpful to have transitory regime in place that takes this into account.
- If firms can pursue both independent and dependent business models, there might be an incentive to market the latter more vigorously.
- There are many technical difficulties that would have to be overcome as a result of the pass-on to customer obligation. Commissions paid to the intermediary are often global and relate to the entire amount of products sold by the latter. To break out what portion of the services/Commissions that relates to particular customers is complex.
- It is not clear what the approach should be for non-pecuniary inducements such as training events or for in advance payments by suppliers.

**Recording of telephone orders**

Generally, they raised the concern that too strict organisational requirements may be detrimental to smaller firms since they may affect the amount of investment needed to carry on investment advice business; an investment may only be justified for those businesses with sufficient volume.

WKO queried what should be the approach with regard to investment advice where it leads to the customer placing of a telephone order (and to what extent the approach is different depending on whether the investment firm is a tied agent within the sense of MiFID). In fact, this is important as many firms only take such orders rarely with the result that there is no critical mass to justify the investment in organisational requirements relevant to telephone orders.

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