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Mr Evan Owen
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Subject: Your e-mail of 5 September related to UK 'gold plating' of MiFID under the Retail Distribution Review

Dear Mr. Owen,

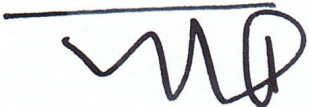
Commissioner McCreavy has transmitted to me your e-mail of 5 September related to a number of MiFID related questions and asked me to respond on his behalf.

Under the Markets in Financial Instruments Directive 2004/39/EC (hereinafter MiFID), Member States can impose additional requirements to MiFID under the conditions established in Article 4 of Directive 2006/73/EC, implementing MiFID. These conditions include, inter alia, the requirement that such measures be notified in advance to the European Commission. The Commission services have received a notification from the UK under Article 4 of Directive 2006/73/EC on the retention of certain requirements relating to the market for packaged products. This notification has been accepted by Commission services as complying with the conditions under Article 4 of Directive 2006/73/EC and therefore as MiFID compliant. This notification touches also upon the definition of independent advisers in as far as the notified provisions [COBS 6.2.15R and 6.2.16R] require that, in order to qualify as independent, firms advising retail clients must abide by the "whole of market requirement" and the "fee option requirements" outlined in the notification. You can find this notification on the Commission's website: http://ec.europa.eu/internal_market/securities/isd/mifid_implementation_en.htm.

Regarding any draft legislation that may be prepared by Member States, as long as such measures do not enter into force without previous notification to the Commission, where such notification is required under Article 4 of Directive 2006/73/EC, there is no infringement of the MiFID provisions.

The Commission services will of course analyse thoroughly any information received on additional requirements for investment firms imposed by legislative measures that may have been enacted by Member States without the notification to the Commission required by Article 4 of Directive 2006/73/EC.

Yours sincerely,


D. J. Lambert
for
Jörgen HOLMQUIST
(Act)

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