

Committee on Economic and Monetary Affairs  
The Chair

Ms Cecilia Wikström  
Chairman  
Committee on Petitions  
ASP08G201

312778 20.07.2015

**Subject:** Petitions Nos. 0513/2012, 0548/2012, 0676/2012, 0677/2012, 0785/2012, 0788/2012, 0949/2012, 1044/2012, 1247/2012, 1343/2012, 1498/2012, 1622/2012, 1761/2012, 1851/2012, 1864/2012, 0169/2013, 0171/2013, 2206/2013, 2228/2013, 2243/2013, 2215/2013, 2272/2013

Dear Ms Wikström,

By letter of 18 May 2015, the Committee on Petitions transmitted the Committee on Economic and Monetary Affairs (ECON) the above-mentioned petitions for information and for taking them into account in the course of ECON's activity, noting that it would be worthwhile for the questions raised in these petitions to be examined by ECON, since it has the main responsibility in the field of the subject matter. ECON Coordinators considered those petitions at their meeting of 9 July 2015 and asked me to reply to you.

All the petitions referred to in your letter date from 2012 and 2013. Eleven were already submitted to ECON by letter of the then PETI Chair Erminia Mazzoni of 17 July 2013. ECON replied by letter of 16 October 2013 (both letters in Annex). Those petitions, as well as the other ones relate to fraud or misinformation in relation to the sale of "preferential shares" and/or subordinated debt by banks to clients. Most petitioners indicate that they were told that the product sold to them was low-risk and liquid, but they eventually lost all or a significant part of their assets.

From the documents provided to ECON, it is not clear whether all petitions concern financial instruments within the scope of the currently still applicable MiFID I (Directive 2004/39/EC on markets in financial instruments). Some of the products concerned may be structured deposits which will be covered by MiFID II/MiFIR (Directive 2014/65/EU and Regulation (EU) No 600/2014) of 15 May 2014, which will become applicable on 3 January 2017.

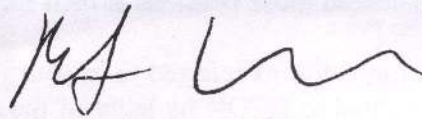
The assessment of specific cases of misleading investment advice provided to clients falls within the competence of the relevant national authorities. MiFID I (and the national provisions transposing that Directive) provide for obligations on financial institutions to explain to their clients the risks associated with financial products that they invest in (cf. Article 19 MiFID). If an institution, as purported by the petitions, fails to explain the risks involved, this may represent a case of non-compliance with existing rules. It is up to the Member State's authorities to investigate the possible infringement and to take any necessary remedial action. In MiFID II, the co-legislators have further strengthened the rules on investor protection and information to be provided to clients.

In the cases at stake, relevant questions include whether the petitions relate to cases of breach of banks' obligations in relation to the information to be provided to clients under MiFID I as transposed into Spanish law, whether Spain properly transposed MiFID I, and whether the Spanish national authorities have properly enforced the applicable provisions. It is not within ECON's competence to answer these questions.

We also note that the European Parliament resolution of 10 March 2015 on the Annual Report on EU Competition Policy refers to the issue raised in the petitions: "*Considers it regrettable that no action was taken by the Commission to address the abuses committed in the restructuring of private banks, including those affecting small depositors and small owners of financial instruments such as preferred shares, which in many cases had been marketed without full compliance with EU legislation*" (§64). It would thus be interesting to ask the Commission which measures it has taken or will take to address the issue referred to in this resolution.

I hope that this will help the Committee on Petitions' further deliberations and would suggest informing the petitioners along the above lines.

Yours sincerely,



Roberto Gualtieri

Annexes: Letter PETI to ECON of 17 July 2013  
Reply ECON to PETI of 16 October 2013