

The European Securities and
Markets Authority

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Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors (JC-CP-2013-03)

The Swedish Investment Association (SIFA) is the main fund management organization on Sweden. The Association's member companies currently represent approximately 90 per cent of the net fund assets held in the Swedish market. SIFA work to promote a sound investment fund market and to promote and protect confidence in funds as a savings format. SIFA is pleased to send you its comments.

Question 1)

SIFA agrees with the conclusions of the Joint Committee Consultation Paper that a consistent approach to complaints handling will ensure adequate protection of complainants throughout Europe. Most of the suggested guidelines are already complied with by Swedish fund companies. SIFA would like to make the following comments to the questions of the consultation paper.

Question 2)

Guideline 2 – complaints management function

Most of SIFAs members already have a designated unit or person handling complaints. It is relevant to require the complaints management policy to designate a unit or a person who is responsible for the handling of complaints but it should be up to each company to decide how this should be organized. The requirement of the suggested guideline to introduce a complaints management function implies independence from the rest of the organization. Such a requirement would put an unnecessary administrative burden on the fund company. The requirement should be implemented in a manner that takes into account the nature, scale and complexity of a firm's business.

SIFA suggests the following wording of Guideline 2:

*Competent authorities should ensure that firms, **depending on the nature, scale and complexity of the their business, designate a unit or person responsible for complaints handling** which enables complaints to be investigated fairly and possible conflicts of interests to be identified and mitigated.*

Guideline 4 - reporting

Guideline 4 requires firms to provide information on complaints and complaints-handling to competent authorities. The guideline could be read as if continuous reporting was required. Continuous reporting of complaints would serve no effective purpose and would only put an unnecessary administrative burden on both firms and supervisory authorities.

SIFA suggests the following wording of the first sentence of the guideline:

*Competent authorities should ensure that firms provide information on complaints and complaints-handling to the competent authorities or ombudsman **on request**.*

Guideline 6 – provision of information

SIFA fully agrees that transparency about the complaints handling process is important to fulfill the needs of the investors. However, the information should be provided in an easily accessible manner where investors can actually find it. The firm's website is the main source of information for investors and the information on the website can easily be kept up to date. Contractual documents on the other hand are much less accessible to investors and brochures and pamphlets are hard to update. SIFA suggests that only the website should be kept as an example in guideline 6 b.

Guideline 7 – Procedures for responding to complaints

In guideline 7 c the firm is required to answer the complaints without unnecessary delays or at least within the time limits set at national level. SIFA suggests that the reference to time limits set at national level is taken out of the guideline. To require a set time limit would not be realistic. Complaints vary in complexity and the necessary time to correctly answer a complaint cannot be decided in advance.

Swedish Investment Fund Association

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