

3 February 2014

The European Securities and Markets Authority  
The European Banking Authority

Via email: [sarah.raisin@esma.europa.eu](mailto:sarah.raisin@esma.europa.eu); [joint-committee@eba.europa.eu](mailto:joint-committee@eba.europa.eu)

Dear Sir / Madam

**Joint Committee Consultation Paper on draft guidelines for complaints handling for the securities (ESMA) and banking (EBA) sectors**

The Association for Financial Markets in Europe (AFME)<sup>1</sup> welcomes the opportunity to respond to draft guidelines proposed by the Joint Committee.

**General Comments**

Although AFME has chosen not to respond directly to the four questions raised in the Consultation Paper, it wishes to make the following points:-

Firstly, whilst welcoming the proposals to the extent that they apply to or refer to firms and supervisors in the retail element of the securities and banking sectors, AFME would welcome clarification from the Joint Committee that the proposals do not refer to the professional or wholesale elements of the market.

Secondly, in the professional or wholesale elements of the market, customers and counterparties are much more likely to have access to legal advice, be it in-house or external, should they have some dissatisfaction with a service provider. Furthermore, such customers and counterparties are much more likely than retail customers to take court action against a service provider should there be a dispute.

Thirdly, it is often the case that professional customers or wholesale counterparties have access to similar information as the financial services provider as thus one of the fundamental weaknesses inherent in the retail sector, namely information asymmetry, is not present or is largely eliminated in the professional and wholesale sectors.

Finally, it is often the case in the professional and wholesale sectors that customers and counterparties will purchase financial services from a multiplicity of providers, not least in order to encourage the providers to offer better service or better prices than their competitors. The threat of withdrawing business, in such cases or in the event of a dispute, is a more powerful incentive in this element of the market than compared to the threat of an individual customer transferring his/her business to a competitor in the retail market.

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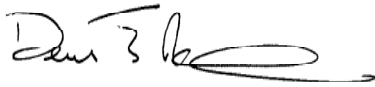
<sup>1</sup> The Association for Financial Markets in Europe (AFME) represents a wide range of participants in European wholesale financial markets. Our members comprise all pan European banks as well as key regional banks, brokers, law firms, investors and other financial markets participants. As such we seek to bring market insight and industry perspective to the discussions on the full range of financial regulatory reform efforts that are currently under way.

## **Conclusion**

AFME welcomes the Joint Committee's proposals to the extent they apply to the retail market, but feel that the mechanisms available to professional and wholesale customers in the event of disputes arising would not benefit from supervisory convergence and intervention.

We would be pleased to discuss the issues covered in this submission with the EBA and ESMA or to provide further information about any of the matters that the Joint Committee have raised if that would be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read "Denis O'Connor", with a long horizontal flourish extending to the right.

**Denis O'Connor**  
**Managing Director**