

The Hungarian Compliance Professionals Working Group welcomes the opportunity to respond to *The European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) Consultation Paper on draft guidelines for complaints-handling*. Therefore we are very supportive of the proposed guidelines in general but also very precise in giving a few comments in order to improve the proposed document:

#### General comments:

There is a term „firm(s)” in sections 6. d), e) and 13. e) We propose the definition will be completed with „companies” regarding the companies which functions in other sectors (eg: POS mobile payment using the NFC enabled devices)

On Page 7 point 11 a)/ ii and iv the term „prompt handling” should be changed to „timely handling”, since some of the complaints couldn’t be analyzed and handled immediately. Changing the term above would harmonize with the G20 High Level Principles on Financial Consumer Protection (issued in October 2011).

#### Questions:

*Question 1: Do you agree that complaints-handling is an opportunity for further supervisory convergence? Please also state the reasons for your answer.*

We agree that the complaints-handling needs to be under further supervisory convergence. There are differences in the regulatory provisions for complaints-handling between the securities and banking sectors, and also among the Member States. The unified regulatory view should help to ensure a consistent approach to complaints-handling (especially for customers) across the banking, investment sectors and should strengthen consumer protection which has key importance in terms of feedback for the prudential operation. It is important that these regulations should appear as general principles, and the detailed regulations should remain at national level.

Stricter rules should be applicable in case of mis-selling complaints.

*Question 2: Please comment on each of the guidelines, clearly indicating the number of the guideline (there are 7 guidelines) to which your comments relate.*

#### **Guideline 1 - Complaints management policy**

The term “senior management” is too general, and for the better and unified application in the Member States primarily it would be better, if the term of “senior management” was defined exactly. Alternatively, it shall be stated that a higher decision-making body or persons (for example the CEO, CRO or one of the highest decision-maker committee) need to approve the complaints management policy. Furthermore it’s also important to introduce a rule that the senior management shall (at least parallel) be responsible for its implementation and for monitoring its compliance. The complaint management policy should be available to the customers at the point of sale and on the firms’ website.

In case of monitoring there should be an annual report prepared for the senior management.

It’s also essential for the high quality application that the employees who are directly or indirectly handling the complaints, need to get proper training about the details on the compliance management policy and its implementation tools.

### ***Guideline 2 - Complaints management function***

We suggest to detail the responsibilities of the complaints management function and the compulsory minimum reporting obligations from such function towards the top management / bodies / committees. For example: once a year there should be an adequate report about the complaints received within a year summarizing the typical main elements of the complaints, tendencies, typical non-compliance events, types of solutions and mistakes together with the related financial costs.

Compliance department needs to be involved in case of conflict of interest investigation.

### ***Guideline 3 - Registration***

Regarding the timing it would be favourable for the markets if there were a maximum number of days within which complaints shall be registered uniformly in all Member States. The timing should be standardized in all Member States.

### ***Guideline 4 – Reporting***

Any reports received by the competent authorities or ombudsman should be also sent to the local management/body of the concerned financial institution, as part of the annual report.

### ***Guideline 5 - Internal follow-up of complaints-handling***

See comments to Guidelines 2. furthermore, there should be a uniform fix period of time during which the complaints and the respective replies shall be stored in order to prove any necessary retrieval. Our suggestion for the maximum term of the record keeping period is 5 years because of a general term of limitation pursuant of the Civil Code, commencing on the day of receipt of the latest communication.

### ***Guideline 6 – Provision of information***

The following shall also be considered in Paragraph “c”:

- a) the date and time of submission of the complaint;
- b) a description of the measures proposed for the handling and resolution of the complaint, and the reasons for its eventual rejection;
- c) the time limit for taking the measures indicated in Paragraph p) and the person appointed for its implementation; and
- d) the date and time of response to the complaint.
- e) nature of the complaint

Track communication with the complainant and, if applicable the product provider.

### ***Guideline 7 - Procedures for responding to complaints***

We believe that a maximum time limit /a certain period expressed in, days there should be determined in which a response shall be sent to clients. Without this the application of the procedures might be very different in the single Member States and the proper handling of the customers’ complaints would be damaged if a different deadline were applicable on national levels.

The same time limit should be applicable in all Member States.

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