

European Securities and Markets Authority

103 rue de Grenelle

75007 Paris

Prague, 24 February 2012

Consultation paper “Guidelines on certain aspects of the MiFID compliance function requirements”

The Czech Association of Securities Brokers represents the interests of investment firms based in the Czech Republic. We comment on the abovementioned consultation paper as follows:

Point 15 lists suitable tools used by compliance function, among which also targeted trade surveillance, observation and / or interviewing of relevant staff is mentioned. In our view, it depends on the structure of the internal control system whether this kind of inspection is to be performed by the compliance function. In case such controls are performed by other control mechanisms, it is in our view not necessary that compliance uses this kind of tools. Compliance function should not become a duplicate of internal audit or other control mechanisms.

Point 18 states that compliance should not have a role in determining the outcome of complaints, but should only oversee the operation of the complaint process. In our view, there should be the possibility to charge compliance officer with dealing with the customer complaints, although we agree that compliance officer should not be the sole person determining the outcome of complaint. Compliance officer should consult the outcome of the complaint with the relevant staff and in case of disagreement, a decision should be taken by a senior manager. This is especially relevant in case of small firms with insignificant number of complaints.

Q6 We agree in general that there should be adequate stand-in arrangements. On the other hand, we are somewhat unclear how this requirement will be put in practice. Especially, the requirement of

adequate stand-in arrangement should not amount to the effective requirement of doubling the number of compliance staff or its leadership.

Q7 We agree in general that compliance should be independent but feel the need for a more concrete definition of this independence. As we understand the text, this independence means that the compliance officer is subordinated to senior management and that other business units cannot directly influence compliance and its activities. In this sense, we agree with the proposal.

Jan Hart

Executive Director