

European Securities and Markets Authority

103 rue de Grenelle

75007 Paris

Prague, 24 February 2012

Consultation paper “Guidelines on certain aspects of the MiFID suitability 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 III.I.

Point III.I requires investment firms to inform clients of the reasons for assessing suitability. We generally agree with this point but have the following comments:

- The summary of the point (in bold) requires that the investment firms inform client “clearly and simply” that the reason for assessing suitability is to enable the firm to act in the clients best interest. The point 17, on the other hand states that “investment firms should highlight to client that it is important to gather complete and accurate information....”

In our view these two requirements are not fully in accordance with each other. We recommend that the guidelines are more precise about what information should be given to the client. It is also our opinion that the information on the purpose of suitability assessment should not be too extensive, because in that case it would complicate the procedures and lose value.

- Under point 18 “investment firms should take steps to ensure that the client understands the relationship between risk and return on investments, and should inform the client about how

a risk profile is established.” In our view this point is somewhat out of topic and should be dealt with in connection with information on risk. Therefore, we suggest deleting point 18. Also we do not think all details on how a risk profile is established need to be disclosed to the client.

Point III.II.

Point 22 interprets the principle that investment firms should know their clients and states that “in many cases it is unlikely that a firm will be able to meet its obligations if it is unaware of or fails to consider the clients age, marital status, family situation, employment situation or need for liquidity....”

Our members are required to gather information on their clients, but this information is currently mainly oriented on financial and property issues. We agree that in certain cases it may be necessary to consider for example the marital status or age of the investor, but we do not think this is the situation in all cases or even in most cases. Also, we are concerned that too extensive questions on personal situation of the customer may lead to non-disclosure of the information by the customer with the effect that the service will be denied to the customer.

We therefore suggest it is made clear in the guidelines that questions regarding personal issues are only required if other information is insufficient for proper suitability assessment.

Point III.IV. – point 35. We agree with the principles in general but are concerned that the guidelines are too vague, which could in effect lead to strict interpretations. Clients will consider in-depths questions as intrusion of their privacy, with a possible result of non-disclosure and possible denial of services.

Point III.VI.

We do not agree with the approach taken in this point. The summary of the point states that investment firm should establish appropriate procedures in order to maintain adequate and updated information about the client. Point 41 states that under MiFID investment firms are entitled to rely on the information provided by their clients, unless they are aware or ought to be aware that the information is manifestly out of date. In our view the summary does not follow from cited clause of

the MiFID and is actually stricter than the text of the Directive. We therefore suggest the summary is rephrased so that it follows closely the wording of MiFID.

Point III.VII.

In our view in case of legal entities, information should be collected on the financial situation and investment objectives of those entities, and not of their beneficiaries, as the text may suggest.

Jan Hart
Executive Director

