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European Securities and Markets Authority
European Banking Authority
sarah.raisin@esma.europa.eu
joint-committee@eba.europa.eu

Deutsche Bank AG
Winchester House
1 Great Winchester Street
London EC2N 2DB

Tel: +44 20 7545 8000

Direct Tel +44 20 7545 1903
Direct Fax +44 20 7547 4179

Dear Sirs,

Deutsche Bank response to Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors

We appreciate the current efforts by the European Supervisory Authorities to ensure that effective complaints management systems in the insurance, securities and banking sector are available and that arrangements for complaints-handling are subject to a minimum level of supervisory convergence across the EU.

Effective complaints handling contributes to customer satisfaction and can provide valuable information to firms on the strengths and weaknesses of their controls. The proposed draft guidelines are generally reasonable and we limit our comments to those where we see some issues that might arise in practice.

We welcome a consistent supervisory approach to complaints handling subject to two observations:

- Local data protection laws do vary and must be protected;
- Proper regard should be had to client segmentation. All client complaints must be properly handled but there will be differences between, broadly retail, professional and market counterparty complaints and reasonable expectations.

As further explained in our separate response to question 3 (on cost and benefit impact) we expect that benefits of centrally standardized processes are weakened for corporate, public sector and institutional clients as they are used to be serviced with a high grade of individuality.

We trust you find our comments helpful. Please let us know if we can provide further information on the one or other aspect.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'AP', with a long horizontal stroke extending to the right.

Andrew Procter
Global Head of Government and
Regulatory Affairs



Deutsche Bank response to Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors

Question 1: *Do you agree that complaints-handling is an opportunity for further supervisory convergence?*

DB Response

We appreciate the goal of supervisory convergence across the financial services industry, but feel that treating institutional clients and retail clients the same may be problematic. A more client centric handling of complaints organized along the various business lines is more responsive to the different needs of the various clients categories. We note that some of the current regulations on which the complaint managements requirements are based do foresee an appropriate distinction between retail and non-retail customers (e.g. MIFID) while others do not (e.g. PSD).

Question 2: *Comments on guidelines*

DB Response - Overall comment

As noted above, we believe a distinction should be made between client categories. For purposes of MiFID for example, there is a clear distinction between complaints by retail clients and by other clients. As set forth by the EBAs in the consultation paper:

“Article 10 of the MiFID Implementing Directive which sets out the obligations on firms in respect of complaints-handling and states that: “Member States shall require investment firms to establish, implement and maintain effective and transparent procedures for the reasonable and prompt handling of complaints received from retail clients or potential retail clients, and to keep a record of each complaint and the measures taken for its resolution”.

The guidelines should for each relevant business area establish a distinction between client segments recognizing the very different types of complaints and expectations across these segments.

Guideline 2 - Complaints management function - *Competent authorities should ensure that firms have a complaints management function which enables complaints to be investigated fairly and possible conflicts of interest to be identified and mitigated.*

DB Response

The benefits of a standardized and centralized complaint handling process are outweighed by the importance of ensuring that each client segment receives an appropriate level of service. Within a universal bank, that is serving various types of customers some, proportionality is necessary in order to adequately handle the various types of complaints brought forward by very different types of clients and subject to different legal requirements according to the area and location affected (see also hereafter our response to Q3).



Guideline 4 – Reporting - *Competent authorities should ensure that firms provide information on complaints and complaints-handling to the competent authorities or ombudsman. This data should cover the number of complaints received, differentiated according to their national criteria or own criteria, where relevant.*

DB Response

We understand the need for competent authorities to be able to review complaint procedures and if relevant request to be provided with the number of complaints received.

The guideline as drafted leaves so much Member State discretion that it will do nothing to reduce the potential need to capture and report different information and in different formats.

It is clear that the relevant metric is not the absolute number of complaints but the number of reasonable or substantiated complaints. Publication of complaints received may be misleading.

More importantly, any reporting on the number of complaints needs to be accompanied by an awareness and evaluation of the complaints handling process.

Guideline 6 – Provision of information - *Competent authorities should ensure that firms:*

- a) On request or when acknowledging receipt of a complaint, provide written information regarding their complaints-handling process.*
- b) Publish details of their complaints-handling process in an easily accessible manner, for example, in brochures, pamphlets, contractual documents or via the firm's website.*
- c) Provide clear, accurate and up-to-date information about the complaints-handling process, which includes:*
 - (i) details of how to complain (e.g. the type of information to be provided by the complainant, the identity and contact details of the person or department to whom the complaint should be directed);*
 - (ii) the process that will be followed when handling a complaint (e.g. when the complaint will be acknowledged, indicative handling timelines, the availability of a competent authority, an ombudsman or alternative dispute resolution (ADR) mechanism, etc.).*
- d) Keep the complainant informed about further handling of the complaint.*

DB Response

While it is important to have transparent procedures for clients, it should be taken into account that most financial services providers cover very different client groups. For example, in a credit institution, the complaint guidelines would cover various areas such as payment services, investment services, credit card services, loans and others. In line with business organization and client expectations, most institutions will have organized their complaint handling procedures accordingly. Any requirement for the provision of general information should allow for differences according to this client segmentation.

Subject to that qualification, clarity, timeliness, responsiveness and access to more detailed information are necessary attributes of a proper complaints handling process. Care should be taken to ensure general standards do not conflict with specific civil law requirements, which may vary between products and jurisdictions.

We rather propose to use a wording along the following lines:

- 6. Competent authorities should ensure that firms:*
 - a) On request, provide written information regarding their complaints-handling process.*
 - b) Publish details of their complaints-handling process in an easily accessible manner, for example, via the firm's website.*
 - d) Keep the complainant informed about further handling of the complaint.*



Guideline 7 - Procedures for responding to complaints - *Competent authorities should ensure that firms:*

- a) Seek to gather and investigate all relevant evidence and information regarding the complaint.*
- b) Communicate in plain language, which is clearly understood.*
- c) Provide a response without any unnecessary delay or at least within the time limits set at national level. When an answer cannot be provided within the expected time limits, the firm should inform the complainant about the causes of the delay and indicate when the firm's investigation is likely to be completed.*
- d) When providing a final decision that does not fully satisfy the complainant's demand (or any final decision, where national rules require it), include a thorough explanation of the firm's position on the complaint and set out the complainant's option to maintain the complaint e.g. the availability of an ombudsman, ADR mechanism, national competent authorities, etc. Such decision should be provided in writing where national rules require it.*

DB Response

We have no comments on Guidelines 7a), b) and d).

With respect to Guidelines 7c) and in particular, if the source and type of complaint is undifferentiated we believe that there should be no standardized timeframe for dealing with a complaint. Complaints vary in nature and often refer to complex issues which may not be recent in time. Therefore, as a general standard, a response within a reasonable timeframe without any unnecessary delay seems the most sensible way to proceed.

With respect to Guidelines 7d) we consider that the complainant's options to maintain the complaint should take into account the MiFID classification of the client, in order to avoid having to apply a more standardized process for professional clients which may not respond to their expectations.

Question 3: Do you agree with the analysis of the cost and benefit impact of the proposals?

DB Response

Costs

As set out above, we believe the starting point for the cost benefit analysis of the proposals is flawed. The slavish adherence to a single model for handling all complaints would lower standards in some areas and result in costs that have no apparent benefit. The paper might also usefully set out expectations for incentivizing staff to fairly and expeditiously manage customer dissatisfaction.

Nonetheless, we estimate costs of setting-up centralized complaint management functions (expense items such as IT, staff) to be significantly higher than assumed in the consultation paper (an estimate for that is at least EUR 3m, including feasibility study and ca 6 month implementation period). Furthermore, the required lead time for the readjustment of internal processes is not sufficiently considered.

Any cross-border harmonization of so far national complaint management functions might also cause severe conflicts with local data protection laws and regulations.

In conclusion, we estimate that the incurring relevant costs are underestimated in the consultation paper.



Benefits

Professional clients can directly address any source of dissatisfaction through their individual and personally established access to dedicated coverage bankers. Given the frequent contacts clients maintain with their coverage bankers, claimants receive prompt feedback on an ongoing basis, on mitigation of the root causes of complaint and on possible solutions.

With individually tailored banking services and products, any harmonized complaint-handling practice might hamper established individual approaches and standards expected by professionally acting clients.

Any approach to centralize processes for all locations, business divisions and client group interfaces globally would lead to a high degree of complexity without necessarily improving the clients' diverse interests across the various client groups (corporate and retail clients have different categories of complaints given the nature of their banking business).

If not handled with care, centralized complaint management functions might even weaken coverage bankers incentive to internally follow-up on the solution of the problem that caused his client's complaint.

In conclusion, we estimate that the benefits of centrally standardized processes are weakened for corporate, public sector and institutional clients since they are used to receiving a high degree of individualised service.