



24/10/2014

European Securities and Markets  
Authority (ESMA)

### **Consultation on delegated acts required by the UCITS V Directive**

The Swedish Bankers' Association ("SBA") would like to give its opinion to ESMA's Consultation Paper on ESMA's technical advice to the European Commission on delegated acts required by the UCITS V Directive.

SBA have taken part in the preparation of the European Banking Federation's reply to the consultation paper and agree and fully support the said opinion. However, SBA would in addition like to express its opinion in relation to certain implications and concerns related specifically to the Swedish market. SBA will thus add the following to the answers to Q13 and Q19.

*Q 13: Do you agree with the identified links may jeopardise the independence of the Relevant Entities? If not, please explain the reasons.*

SBA believes that the independence of the Relevant Entities is not jeopardised with the cross-shareholding/group inclusion. The reasons for this are that the Relevant Entities are heavily regulated with strict responsibilities and obligations, under the supervision of relevant authorities, acting under a strict liability regime as well as a strict sanctions regime and are also acting in compliance with prudent conflict of interest regulations and requirements. It does not seem logical that the ownerships structures should jeopardise the independence of the Relevant Entities under such circumstances – under no circumstances in a way that such a prohibition should be considered proportionate.

*Q19: Which of the two identified options do you prefer? Would you suggest any alternative option? If yes, please provide details.*

The first option 1 is not acceptable and goes beyond the level one directive and the intention of the legislator, since the actual prohibitions in relation to providing certain services in both UCITS and AIFMD are regulated in the level one directive,



respectively. In some smaller sized markets in member states such as Sweden, depositaries will have to reconsider their business models and whether to continue as depositaries if they are denied to provide services to the certain funds domiciled there. If even fewer entities would offer the services of a depositary it would risk to have a negative impact on the supply of such services and also on market competition. It would then risk to lead to increased costs with detrimental effects for the end investors in UCITS funds. Most likely it might also lead to increased thresholds for the establishment of new funds and management companies.

Best regards

SWEDISH BANKERS' ASSOCIATION

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