

The European Securities and Markets Authority  
103 rue de Grenelle  
FR-75007 Paris

Sent via email  
Sarah.raisin@ESMA.europa.se

Our ref.: Joakim Uvegård

Your ref.: Sarah Raisin

Stavanger, 7 February 2014

Dear Mrs. Raisin,

## **SKAGEN AS response to Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors (JC-CP-2013-03)**

SKAGEN AS (SKAGEN Funds) is an independent Norwegian management company managing app. 14 Bn EURO for clients around Europe with the head office located in Stavanger Norway. SKAGEN Funds is pleased to send you its comments.

### **Question 1)**

SKAGEN Funds agrees with the conclusions of the Joint Committee Consultation Paper that a consistent approach to complaints handling will ensure adequate protection of complainants throughout Europe. Most of the suggested guidelines are already in force in the regulatory framework of the Norwegian fund market.

### **Question 2)**

#### ***Guideline 2 – complaints management function***

As a smaller fund management company it is important that the rules suggested in the proposed guideline takes into account the nature, scale and complexity of our business. As a small fund manager we would like to avoid the risk of interpretations by relevant authorities for a stand-alone function, independent from the rest of the organisation. This would bring unreasonable costs for a small manager like SKAGEN Funds. Instead SKAGEN Funds suggests the following wording of Guideline 2:

*Competent authorities should ensure that firms, **depending on the nature, scale and complexity of their business, designate a unit or person responsible for complaints handling** which enables complaints to be investigated fairly and possible conflicts of interests to be identified and mitigated.*

#### ***Guideline 4 - reporting***

Guideline 4 can be read as if continuous reporting was required to the competent authorities. Continuous reporting of complaints would serve no effective purpose and would only put an unnecessary administrative burden on both firms and supervisory authorities.

SKAGEN Funds suggests the following wording of the first sentence of the guideline:

*Competent authorities should ensure that firms provide information on complaints and complaints-handling to the competent authorities or ombudsman **on request**.*

Our ref.:  
Date: Stavanger 7 februari 2014



### ***Guideline 6 – provision of information***

SKAGEN Funds fully agrees that transparency about the complaints handling process is important to the investors. However, the information should be provided in an easily accessible manner where investors are used to find information. SKAGEN Funds suggests that only the website should be kept as an example in guideline 6b.

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

According to the proposed Guideline 7c, the firm is required to answer the complaints without unnecessary delays or at least within the time limits set at national level. SKAGEN Funds supports a correct and quick response to complaints but are hesitant to the reference to time limits set at national level if this can be interpreted as a time limit set for a final decision on the complaint itself. Complaints vary in complexity and the necessary time to correctly answer a complaint cannot be decided in advance. Perhaps a clarification could be added or the reference to the time limits set at a national level removed.

Best regards  
SKAGEN AS

Electronic copy – no signature

Leif Ola Rød  
Head of Compliance and Legal