



Verein  
unabhängiger Vermögensverwalter  
in Liechtenstein

European Commission  
Directorate General Internal Market and Services  
Unit G3 – Securities Markets  
SPA 2 03/079,  
B-1049 Brussels

Sent by e-mail to: [Markt-g3@ec.europa.eu](mailto:Markt-g3@ec.europa.eu)

Vaduz, 3 March 2009

### **Directive 1997/9/EC on Investor-Compensation Schemes – Call for evidence**

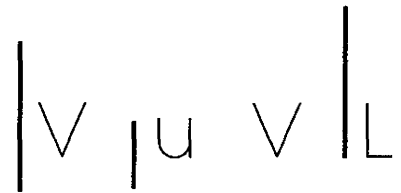
Dear Madam, Dear Sir

The Association of Independent Asset Managers in Liechtenstein welcomes the opportunity to participate in this Call for evidence and would like to give its opinion on one of the posed questions in this consultation concerning Directive 1997/9/EC on Investor-Compensation Schemes.

#### **Point 3.1.2 - Loss covered**

*2) Would it be appropriate to include in the scope of the ICSD all investment firms seeking authorisation to the provision of investment services, although their authorisation would not allow holding clients' assets?*

The Association of Independent Asset Managers in Liechtenstein has the opinion, that it **would not be appropriate** to include investment firms that are not allowed to hold clients' assets in the scope of the ICSD. Clients' assets of such investment firms are held by banks or other investment firms which are licenced to hold clients' assets and for which, therefore, an investor-compensation scheme already exists. This would lead to double compensation for the same incident. If the investor-compensation scheme were also applicable in cases where investment services are being provided illegally (that is, without any authorisation), it would create a situation where legally working asset managers have to pay for illegal activities of others. This could also lead to a situation where the licensed asset managers



Verein  
unabhängiger Vermögensverwalter  
in Liechtenstein

would get into financial difficulties through the illegal and abusive activities of unauthorised investment firms. It is likely that asset managers would be forced to increase their fees in order to compensate for such risks. This increase of fees would not be in the interest of consumers. Furthermore, it would make the EU based asset managers less competitive versus firms offering their services from outside the EU.

We are clearly of the opinion that consumers have a duty to examine the quality, seriousness and reputability of investment firms with which they enter into a contract. Consumers should be protected by the fact that they deal with authorised and regulated firms, but not with unauthorised ones that may commit fraud.

The Association of Independent Asset Managers in Liechtenstein therefore strongly suggests, that the ICSD is amended through a provision, which clearly states, that investment firms which are not authorised to hold clients' assets are not included in the scope of the ICSD.

Furthermore, the Association of Independent Asset Managers in Liechtenstein suggests, to clarify in an appropriate manner in the amended version of the Directive, that investment firms authorised to provide investment services but not to hold clients' assets are not covered by the scope of Art. 11 of MiFID, i.e. that investment firms which are not allowed to hold clients' assets are not obliged to fulfil the provisions of the ICSD.


We thank you in advance for taking into account our contribution to the Call for evidence.

Sincerely yours,

**Association of Independent Asset Managers  
in Liechtenstein**



Fredy Wolfinger  
President



René Frank  
Vice President