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**Prior by email:
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Re: Your letter of 29 July 2013

Dear Sirs,

I am writing in relation to your previous letters to me dated 9 July and 29 July 2013 (your ref: BUL-1) regarding the matter relating to the interpretation of Article 19(9) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (“MiFID”).

As you rightly mentioned, on 30 May 2013 the European Court of Justice (Fourth Chamber) has delivered a judgment on a request for a preliminary ruling concerning the interpretation of Articles 4(1)(4) and 19(4), (5) and (9) of Directive 2004/39/EC (Case C-604/11).

I also thank you for drawing our attention to the judgment delivered on 15 July 2013 by the National Court of Spain (Administrative litigation Chamber, Third Section) on transparency and protection of banking customers.

ESMA is committed to ensuring the consistent, efficient and effective application of Union law within our scope of action, including MiFID. The CNMV will need to consider the effect of these judgments on any split of competences in Spain between the CNMV and the Bank of Spain. Of

particular relevance is paragraph 48 of Case C-604/11 in which the court concluded the following:

It follows from the foregoing considerations that Article 19(9) of Directive 2004/39 must be interpreted as meaning, firstly, that an investment service is offered as part of a financial product only when it forms an integral part thereof at the time when that financial product is offered to the client and, secondly, that the provisions of EU legislation and the common European standards referred to by that provision must enable there to be a risk assessment of clients and/or include information requirements, which also encompass the investment service which forms an integral part of the financial product in question, in order for that service no longer to be subject to the obligations laid down in Article 19.

In this respect I would like to inform you that in light of the court decisions we are seeking a detailed explanation from the CNMV on how they will ensure their compliance with the provisions of MiFID, as interpreted by the European Court of Justice. We will review the information that they provide to us and will closely monitor their compliance.

Yours sincerely,



Steven Maijoor

Chair

European Securities and Markets Authority