

Regulations of stockbroker's acting towards his clients

Abstract

The purpose of my thesis is to define and analyze a scope of regulation of securities broker's acting toward his clients. These rules are set up by European law and regulation, which was brought by three legal documents. First is Directive no. 2004/39/EC on markets in financial instrument, also called MiFID (Markets in Financial Instrument Directive). Second rule is implementing regulation of European Commission no. 1287/2006. Third rule is implementing directive of Commission no. 2006/73/EC. The first rule crates so called LEVEL 1 and the last two rules create LEVEL 2. Legal rules in Czech Republic are set up by reception of above mentioned European rules into the Czech act no. 256/2004 Sb. about business activities on capital markets and implementing publication no. 237/2008 Sb.

These all legal documents bring wide range of regulations and inside of this regulation; the significant group is created by rules about protection of the clients, which are the subject of my analyses in the thesis. The thesis is composed of introduction chapter and seven specific chapters.

In introduction are presented objectives and goals and structure of the thesis. In this chapter is defined the basic terminology and sources of the law.

First chapter is focused on role of the capital markets in economy. This chapter describes how capital markets are working, what are there needs, who are the main subjects on capital markets. Describes what the primary capital market is and what the secondary capital market is, how these markets are working and who the subjects are.

Second chapter describes the role of the securities broker on capital market and describes there services, also towards to protection of the clients.

Third chapter is about position of regulation of securities broker's acting towards his clients in Czech general civil law. In this chapter is analyzed if application of general rules is possible on legal relationships between securities brokers and their clients. In this chapter is also analyzed if the general civil legal rules would be theoretically and practically sufficient to regulate these legal relationships and if the special rules are necessary.

The chapter forth describes the definition of the term “client” and describes the classification of the clients brought by MiFID. This chapter is subdivided into three subchapters. One subchapter defines legal term “Eligible counterparty”, the second subchapter defines legal term “Professional client per se” and “Professional client per request”, the fourth subchapter defines legal term “Retail client”.

The fifth chapter talks about general rules of securities broker, especially about the rule which oblige the broker to offer his investment services and activities with professional care.

The sixth chapter is the core of this thesis and is subdivided into eight subchapters. Each subchapter describes and analyses certain rule for securities broker for his acting with clients. The first subchapter constitutes the general rule of stockbroker’s acting to act honestly, fairly and professionally in accordance with the best interests of its clients. Another subchapter analyses rules for providing information from the client for the purposes of suitability tests and appropriateness test.

The seventh chapter focuses on rules of providing stockbroker’s services through other subject as is tied agent and investment advisor.

The last chapter is conclusion of the thesis, where are summarized all main findings based on analyses of the regulation. First, I interpret, that Czech general rules of civil law could be applicable on legal relationships between stockbroker and his clients. Second, I suggest that new legislation should concentrate on more clear classification of the client. The client called “eligible counterparty” should be specified separately. And than I also analyze, that the regulations of stockbroker ’s acting should not be necessary to apply on eligible counterparty and professional client in all investment services.

Key Words

Regulations of acting

Stockbroker

Client