

A MODEL FOR SUPERVISING INVESTMENT FIRM AGENTS: REGULATORY REQUIREMENTS, RISKS, AND BEST PRACTICES

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***Abstract:** This article addresses the issue of an investment firm's supervision of its agents in light of the position of the Polish Financial Supervision Authority. The starting point is the assumption that the use of the agency model is a significant element in the organization of investment services distribution, yet it simultaneously generates numerous legal, organizational, and operational risks. Of particular importance here is the obligation arising from Article 79(6a) of the Act on Trading in Financial Instruments, pursuant to which an investment firm is required to supervise the activities performed by an agent to ensure their compliance with the law and to eliminate the negative impact of the agent's other activities on agency activities.*

The study indicates that the investment firm's liability for the agent's acts and omissions is full and unconditional, which justifies the need for active, systematic, and multi-level supervision. The analysis concludes that the agent, despite its formal separateness, functionally constitutes part of the investment firm's external organizational structure in the performance of agency activities. For this reason, supervision cannot be limited solely to the provisions of the agency agreement but should also cover internal procedures, the control system, reporting rules, the organization of activities, and the technical and organizational conditions of the agent's operations.

Particular attention was devoted to high-risk areas, such as the prohibition on sub-agency, the method of engaging persons to perform activities on behalf of the agent, the flow of information, the control of communication with clients, and the use of internal control instruments. The article emphasizes that the effectiveness of supervision depends on the implementation of actual verification and response tools, rather than merely the formal assignment of responsibility to the agent. The UKNF's position was assessed as a significant reference point for building an effective compliance model to protect clients, mitigate regulatory risk, and ensure that agency activities comply with capital market law requirements.

Keywords: investment firm agent, investment firm, supervision, UKNF, compliance, regulatory risk, brokerage services.

Introduction

The modern investment services market increasingly relies on distribution models in which direct contact with the client is carried out not solely by the investment firm itself but also by agents acting on its behalf. This approach enhances sales efficiency and allows for the expansion of business reach, but simultaneously gives rise to significant legal, organizational, and supervisory risks. Of particular importance here is the fact that, in accordance with the approach adopted in national and EU regulations, the investment firm retains full responsibility for the acts and omissions of an agent acting on its behalf. This means that the agent is not merely an external intermediary but an integral part of the structure of brokerage operations, requiring substantive—rather than merely formal—supervision.

The issue of supervision of an investment firm's agent is gaining importance in both market practice and legal and financial discourse. The position of the Polish Financial Supervision Authority indicates that the supervisory obligation is not limited solely to the control of individual activities performed by the agent under an agency agreement, but also covers areas such as compliance with internal regulations, the organization of service delivery, conflicts of interest, the method of remunerating persons performing agency activities, the technical and organizational conditions of the business, and the risk of adverse influence from the agent's other activities. In this sense, the subject of the research concerns not only the classic problem of contractual or administrative liability, but the broader issue of constructing an effective compliance and control model in the investment services sector.

In the literature and regulatory practice, much attention is devoted to the liability of financial institutions for ensuring that the services they provide comply with legal requirements, protect clients, manage conflicts of interest, and implement internal procedures. However, the model of supervision over an investment firm's agent—as a formally separate entity but functionally integrated into the investment firm's operational structure—is much less frequently the subject of in-depth analysis. Meanwhile, an analysis of the UKNF's position shows that it is precisely at the intersection of the agent's formal separateness and the investment firm's full responsibility that the most significant interpretive and practical doubts arise. These concerns, in particular, the limits of permissible cooperation arrangements, the prohibition on sub-agency,

the scope of disclosure and control obligations, and the methods for establishing effective supervisory instruments.

The research problem of this article thus boils down to how an investment firm's supervision of an agent should be understood and organized so that it not only meets formal legal requirements but also effectively minimizes regulatory, operational, and reputational risks. It is not merely a matter of determining whether an investment firm has the authority to control an agent, but of defining the scope, intensity, and practical nature of such supervision under conditions of full liability for the agent's activities. It is also particularly important to determine whether the current supervisory approach enables the development of a coherent model for managing the agency relationship, encompassing both the agreement's terms and ongoing mechanisms to verify how the agent and the persons it employs perform their activities.

The research gap is that supervision of an investment firm's agent is usually addressed in a fragmented manner: either from the perspective of regulations governing brokerage activities or through the lens of the investment firm's liability for the agent's violations. This problem is rarely analyzed comprehensively as a system of interrelated organizational, control, and management obligations that the investment firm should implement. Filling this gap is significant not only theoretically but also practically, as improperly structured relationships with agents can lead to legal violations, regulatory sanctions, and weakened client protection.

The aim of this article is to analyze the model of an investment firm's supervision over its agent in light of the position of the Polish Financial Supervision Authority, with particular emphasis on the legal basis for this obligation, the scope of the investment firm's responsibility, and the most significant risks associated with the use of the agency structure in brokerage activities. A specific objective is also to identify those organizational and control elements that determine whether supervision over the agent is substantive or merely formal.

The article adopts the hypothesis that effective supervision of an investment firm's agent requires the implementation of permanent, multi-level, and risk-based control mechanisms, covering not only activities performed directly under the agency agreement but also those aspects of the agent's organization and operations that may affect the manner in which investment services are provided. It is further assumed that the agency agreement itself does not constitute a sufficient instrument to ensure the legality of the agent's actions if it is not supported by ongoing monitoring, appropriate procedures, and the possibility of real supervisory intervention on the part of the investment firm.

The structure of this article is organized to achieve the stated research objective. The first part discusses the legal basis for an investment firm's agent's operation and the scope of

the investment firm's liability. The second part analyzes key risk areas associated with the agency relationship, including sub-agency, the agent's work organization, technical and organizational conditions, and compensation systems. The third part will present supervisory and organizational mechanisms that can serve to build an effective compliance model in the relationship with the agent. The article concludes with an assessment of the significance of the UKNF's position for the operational practices of investment firms and conclusions de lege lata.

1. Legal and Organizational Foundations of Supervision over Investment Firm Agents

1.1. The Status of an Investment Firm Agent in the Brokerage System

An investment firm's agent occupies a special position within the brokerage system, as it remains a legally separate entity from the investment firm but performs activities on its behalf and for its account. In EU law, the equivalent of this structure is *the tied agent*, defined as a natural or legal person acting under the full and unconditional responsibility of a single investment firm, promoting investment services, acquiring clients, accepting and transmitting orders, offering financial instruments, or providing investment advice (Directive 2014/65/EU, Art. 4(1)(29)).

In Poland, the status of an agent should be understood more broadly than merely as a contractual relationship. As A. Zbrojewski points out, an investment firm's agent is a specific type of specialized agent to whom the investment firm may entrust the permanent or periodic performance, on behalf of and for the account of that firm, of intermediary activities within the scope of its investment operations, which places the agent within a regulated area closely linked to the capital market's supervisory regime (Zbrojewski, 2023, pp. 137–138).

The significance of this institution lies in the fact that using an agent does not transfer regulatory responsibility outside the investment firm. On the contrary, this structure is based on the assumption that the investment firm retains full responsibility for the agent's acts and omissions. This position is unequivocally confirmed by both MiFID II and ESMA's supervisory practice, which emphasizes the need to monitor the use of agents, especially where they may be used to circumvent organizational and supervisory requirements (ESMA, 2022, pp. 2, 4). The UKNF also indicates that, in the administrative sphere, the investment firm is responsible for ensuring the agent's activities comply with the law, and in the civil sphere, it is liable for damages caused to the client in connection with the performance of agency activities (UKNF, n.d., p. 2).

From an organizational perspective, the agent should not be treated as a mere external sales intermediary. The UKNF emphasizes that the agent's organizational structure, insofar as it serves the performance of agency activities, constitutes an element of the investment firm's external sales network and thus part of its broader organizational structure (UKNF, n.d., p. 5). This approach to the agent aligns with the EU framework, under which a firm using an agent is required to ensure that persons involved in providing services are familiar with the relevant procedures, and that clients are informed that the service is provided through an agent (ESMA, 2022, p. 4).

The status of an agent is therefore hybrid in nature. On the one hand, the agent is an independent entity under civil law; on the other hand—with regard to agency activities—it functionally becomes part of the investment firm's brokerage operations. This is precisely why supervision of the agent cannot be limited to the mere conclusion of the agency agreement. It must also include an assessment of how the agent's business is organized, its relationships with clients, compliance with procedures, and the impact of the agent's other activities on the services performed on behalf of the investment firm (UKNF, n.d., pp. 5, 7; ESMA, 2022, p. 2).

As a result, an investment firm's agent should be viewed not as a mere counterparty, but as a specific form of brokerage activity carried out by the investment firm through a legally separate entity that is, however, organizationally and in terms of liability, linked to it. Such a classification justifies heightened supervisory and compliance requirements for the investment firm and serves as a starting point for further analysis of the obligation to supervise the agent.

1.2. Supervisory Obligation under Article 79(6a) of the Act on Trading in Financial Instruments

The duty to supervise an investment firm's agent is explicitly statutory in the Polish legal system. Pursuant to Article 79(6a) of the Act on Trading in Financial Instruments, an investment firm is required to supervise the activities performed by the agent under an agency agreement so that they are conducted in accordance with the Act and its implementing regulations, and also to ensure that the agent's other activities do not adversely affect the activities performed on behalf of the investment firm (Act of July 29, 2005, on Trading in Financial Instruments, 2024, Art. 79(6a), p. 191). Thus, even from the wording of the provision, it is clear that this supervision is twofold: first, it serves to ensure the legal compliance of the agency activities themselves, and second, it also encompasses the elimination of risks arising from the agent's broader activities.

In the UKNF's position, this provision was interpreted broadly. The supervisory authority indicated that the investment firm remains the direct addressee of the rules governing brokerage activities, while the agent—as an entity performing activities related to the provision of brokerage services—is also obligated to comply with them to the extent corresponding to the tasks entrusted to it. For this reason, supervision cannot be limited to passive formal control but should aim to ensure that the obligations imposed by law on the investment firm are properly fulfilled, even when carried out by the agent (UKNF, n.d., p. 2). This interpretation is also consistent with ESMA's approach, which emphasizes that a firm using a tied agent remains “fully and unconditionally responsible” for the agent's acts and omissions, and must therefore have effective control mechanisms in place both at the stage of delegating activities and throughout the course of further cooperation (ESMA, 2022, pp. 3, 5).

The literature aptly emphasizes that Article 79(6a) does not merely establish a technical obligation to monitor the agent, but constitutes an organizational standard defining the manner of using the agency model in investment activities. As Zbrojewski notes, the very structure of the agreement with an investment firm's agent presupposes that the agent performs intermediary activities “on behalf of and for the account” of the investment firm, which means that regulatory risk remains with the licensed entity (Zbrojewski, 2023, p. 137). In this sense, the supervisory obligation should be understood as a consequence of the liability model adopted by the legislator, rather than as an optional management tool.

Particularly significant is the second element of Article 79(6a), relating to the agent's activities performed outside the scope of the agency agreement. The legislator requires that the investment firm prevent situations in which the agent's other activities could negatively impact agency activities. This gives rise to an obligation to examine issues such as conflicts of interest, the agent's business ties, the agent's compensation model, and the concurrent use of personnel engaged in other activities. The UKNF explicitly states that effective supervision should cover precisely these areas, as they often determine the actual level of compliance and client protection (UKNF, n.d., pp. 2, 16–17). Similarly, ESMA notes that the use of tied agents may become a means of circumventing MiFID II requirements if the investment firm fails to analyze the broader organizational context and the relationship network of such an entity (ESMA, 2022, pp. 2, 5).

Consequently, Article 79(6a) should be interpreted as establishing an obligation for effective, ongoing, and risk-based supervision. Therefore, merely entering into an agency agreement or formally designating a person responsible for supervision is insufficient. It is necessary to implement procedures and tools that will enable the investment firm to identify

irregularities, respond to them, and assess whether the agent’s organizational structure and operating model continue to ensure the proper performance of agency activities (Act of July 29, 2005, on Trading in Financial Instruments, 2024, Art. 81(1)(2)(g–h), pp. 193–194; UKNF, n.d., p. 29; ESMA, 2022, p. 5).

1.3. The agent as part of an investment firm’s external organizational structure

An investment firm’s agent should not be viewed solely as an independent counterparty performing specific activities under a contract. Under the MiFID II model, the agent is an entity to be integrated in an organized manner into the investment firm’s operations. This is confirmed by Article 35(2)(d) of Directive 2014/65/EU, which requires that when using an agent in another Member State, a description of its use and organizational structure—including reporting lines—be provided, indicating how the agent fits into the investment firm’s corporate structure. Furthermore, an agent operating on a cross-border basis may be treated as a branch, thereby confirming its organizational link to the investment firm (Directive 2014/65/EU, 2014, Article 35(2)(d) and the second paragraph).

ESMA elaborates on this understanding of the agent’s status, noting that the *tied agent* regime is mandatory under MiFID II, and an investment firm that uses an agent must ensure not only the agent’s appropriate reputation and competence but also a level of organizational cooperation that allows for effective supervision of the activities performed (ESMA, 2022, p. 3). In practice, this means that the tied agent is not an “external salesperson” operating alongside the investment firm, but rather part of its operational model and client contact channel, which should be subject to the same logic of compliance, reporting, and control as other elements of the sales structure (ESMA, 2022, pp. 3–5).

The position of the UKNF follows a similar line. The supervisory authority explicitly states that the agent’s organizational structure—to the extent that it serves the performance of agency activities—constitutes an element of the investment firm’s external sales network and, thus, part of its broader organizational structure. For this reason, the investment firm’s obligations may relate not only to individual activities performed by the agent, but also to those elements of the agent’s organization and operations that may affect compliance with the agency agreement, particularly in the area of conflicts of interest or other adverse effects on agency activities (UKNF, n.d., p. 5).

The significance of an agent’s organizational integration into an investment firm’s operations is also evident from a civil law perspective. As Zacharzewski points out, brokerage in financial instruments should be understood as a continuing service relationship in which the

broker acts on behalf of the principal, and structurally this relationship is similar to a mandate and embedded in a broader model of service provision in the capital market (Zacharzewski, 2008, pp. 157–158). With regard to an investment firm’s agent, this means that their activity is not incidental or technical in nature, but rather contributes to the manner in which the investment firm conducts its brokerage business.

Consequently, an investment firm’s agent should be viewed as part of the investment firm’s external organizational infrastructure, rather than merely as an entity to which specific tasks have been delegated. Such a classification justifies the requirement for active and systematic supervision, tailored to the agent’s actual scale, legal form, and organizational structure. Only with this approach is it possible to ensure that the agency model does not become a means of dispersing liability, but remains consistent with the protective function of capital market law (UKNF, n.d., p. 7; ESMA, 2022, p. 5)

1.4. Full liability of the investment firm for the agent’s acts and omissions

One of the fundamental features of the investment firm’s agent structure is that using this model does not transfer liability outside the investment firm. On the contrary, both EU law and the Polish Act on Trading in Financial Instruments are based on the assumption that the agent acts on behalf of another party, but the regulatory risk and a significant portion of the legal consequences of the agent’s activities remain with the investment firm. MiFID II explicitly states that where an agent is appointed, the investment firm remains “fully and unconditionally liable” for any act or omission of the agent when acting on behalf of that firm (Directive 2014/65/EU, 2014, Art. 29(2)).

Under Polish law, this principle has been elaborated in even greater detail. Pursuant to Article 79(5) of the Act on Trading in Financial Instruments, the investment firm and the agent are jointly and severally liable for damage caused by the investment firm’s agent in connection with the performance of activities on behalf of and for the account of the investment firm, who caused the damage, with the exclusion of liability being exceptional in nature and applying only in cases of force majeure or the sole fault of a third party (Act on Trading in Financial Instruments, 2026, p. 191). This means that the legislature did not limit itself to a general formula for supervisory liability but also established a civil-law mechanism for client protection.

The significance of this framework is also underscored by the Polish Financial Supervision Authority's (UKNF) position. The supervisory authority notes that, in the administrative sphere, an investment firm is responsible for ensuring that an agent’s activities

comply with the regulations governing brokerage operations, and that violations by the agent may be classified as violations by the investment firm itself. The UKNF also explicitly notes that this circumstance should be taken into account by the investment firm when managing the risks arising from the adopted organizational model, as the agent does not serve as a “buffer” against liability but rather as one of the channels for conducting regulated activities (UKNF, n.d., pp. 2, 5).

Similarly, ESMA emphasizes that the principle of full and unconditional liability is not merely declaratory. The supervisory briefing indicates that an investment firm must organize its relationship with the agent so as to effectively control the agent’s activities, assess the agent’s compliance, and mitigate risks to clients and the market. The investment firm’s liability is therefore closely linked to the obligation to establish effective mechanisms for supervision, reporting, and escalation of irregularities; otherwise, the agency model could lead to circumvention of MiFID II requirements (ESMA, 2022, pp. 3–5).

Consequently, the investment firm’s full liability for the agent’s acts and omissions should be understood in two ways. First, it has a protective dimension for the client, ensuring the client can also bring claims against the licensed entity. Second, it has an organizational and supervisory dimension, as it justifies the investment firm’s broad obligations regarding the selection of the agent, oversight of its structure, monitoring of how activities are performed, and responding to violations. This is precisely why this liability constitutes not only a consequence of using an agent but also the fundamental justification for the obligation to actively and systematically supervise the agent (Act on Trading in Financial Instruments, 2026, p. 191; ESMA, 2022, p. 5; UKNF, n.d., p. 7).

2. Supervision Mechanisms, Compliance, and Best Supervisory Practices

2.1. Supervisory tools used by an investment firm

Effective supervision of an investment firm’s agent cannot be limited to the mere conclusion of an agency agreement. It should take the form of a set of interrelated organizational, control, and information tools that enable the investment firm to monitor the performance of agency activities on an ongoing basis and to respond quickly to identified irregularities. This approach stems both from ESMA’s stance, which emphasizes the need for effective monitoring of *tied agents’* activities during the course of cooperation, and from the UKNF’s position, which underscores the active and systematic nature of supervision (ESMA, 2022, pp. 2, 5; UKNF, n.d., p. 7).

The first supervisory tool is the proper structuring of the contractual relationship. The agency agreement should not only define the scope of the entrusted activities but also provide for compliance with the investment firm's internal procedures, reporting rules, the procedure for reporting violations, and the investment firm's right to conduct inspections. The UKNF explicitly states that even when detailed rules are included in procedures, regulations, or other internal documents, the agreement should contain an effective commitment by the agent to comply with them and specify how changes to them will be communicated (UKNF, n.d., p. 6).

The second fundamental tool consists of information and reporting mechanisms. The investment firm should ensure it has access to data enabling it to assess the compliance of the agent's activities, and control measures must not be limited to the agent's own organizational level. As the UKNF indicates, the results of controls should be systematically communicated to the investment firm, for example in the form of reports on identified violations and how they were remedied, and the entire process should be supported by resources responsible for internal control and oversight of compliance with the law (UKNF, n.d., p. 27). This approach aligns with ESMA's position, according to which a firm using an agent must have sufficient means to monitor the agent's activities on an ongoing basis and assess whether the agency model weakens the compliance and client protection framework (ESMA, 2022, pp. 4–5).

Another supervisory tool consists of periodic and thematic inspections. These should cover not only the formal compliance of documentation but also the agent's actual operations, including communication with clients, methods of archiving information, adherence to data protection rules, proprietary trading, and the fulfillment of disclosure obligations. The UKNF emphasizes that an investment firm must systematically analyze the information collected and address selected risk areas as part of the agent's periodic inspections, and that supervision cannot be based solely on declarations or indirect assurances of compliance (UKNF, n.d., pp. 21–22, 25).

Another important supervisory tool is the direct involvement of the investment firm's compliance and internal control functions in assessing the agent's activities. From an organizational perspective, this means that the agent should not remain outside the compliance risk monitoring system but must be subject to the procedures applicable to the investment firm. Delegated Regulation 2017/565 requires investment firms to maintain effective policies and procedures ensuring that their activities comply with the obligations under MiFID II, and ESMA emphasizes that these obligations also cover activities conducted through agents (European Commission, 2017, Art. 22; ESMA, 2022, pp. 3–5).

A separate but very important supervisory tool is oversight of the complaint and grievance-handling process. The UKNF notes that it is the investment firm, not the agent, that should handle client complaints regarding the agents' activities, while the agent may only perform a supporting role, such as receiving the complaint or providing explanations. This solution is significant not only from the perspective of client protection but also from the standpoint of supervision, as it allows the investment firm to monitor actual problems arising in the agent–client relationship and identify areas requiring intervention (UKNF, n.d., pp. 25–26).

As a result, the supervisory tools used by the investment firm should form a coherent system comprising: a properly structured agency agreement, reporting obligations, periodic checks, ongoing information flow, the involvement of compliance and internal control functions, and centralized monitoring of complaints and violations. Only the combined application of these instruments allows one to conclude that supervision of the agent is substantive rather than merely formal (ESMA, 2022, p. 5; UKNF, n.d., p. 27)

2.2. Reporting, Document Workflow, and Information Sharing

Reporting and proper document circulation are among the fundamental prerequisites for effective supervision of an investment firm's agent. Even sophisticated control mechanisms remain ineffective if the investment firm does not receive timely information about how agency activities are performed, identified violations, client complaints, or organizational changes on the agent's side. For this reason, the flow of information should be treated not as a secondary element, but as the core of the supervisory relationship between the investment firm and the agent (UKNF, n.d., p. 27).

The UKNF's position clearly indicates that the agent's control activities and their results should be systematically reported to the investment firm. This applies in particular to information regarding detected irregularities, corrective measures, and the method of restoring compliance. The supervisory authority emphasizes that such a model is particularly important when the agent has its own control structures, as their existence does not relieve the investment firm of its responsibility for ongoing risk assessment and the effectiveness of responses to violations (UKNF, n.d., p. 27).

From an EU perspective, similar importance is attached to management information and documentation systems. Delegated Regulation 2017/565 requires investment firms to maintain adequate records of all services, activities, and transactions so that the competent authority can assess compliance with MiFID II obligations and the firm itself can reconstruct the course of

events and verify their compliance. In practice, this obligation also covers activities carried out with the involvement of an agent, as the investment firm remains responsible for the compliance of the entire model of providing investment services (European Commission, 2017, Art. 72, pp. 56–57).

The literature emphasizes that documentation in the capital market serves not only an evidentiary function but also organizational and preventive functions. Proper document flow enables the identification of errors, the reconstruction of the decision-making process, and the assessment of whether disclosure and prudential obligations have been fulfilled correctly. With regard to relations with the agent, this means that procedures must be designed so that the investment firm has access not only to the final documents provided to the client but also to information on how they were created, authorized, archived, and potentially corrected (Wierzbowski, ed., 2019, pp. 672–674).

The flow of information regarding complaints, claims, and compliance incidents is also of particular importance. The UKNF indicates that an investment firm should establish a communication model with the agent that enables the immediate collection of information about issues arising in client relationships. This applies to both formally filed complaints and reports of irregularities that may indicate flawed sales practices, breaches of disclosure obligations, or organizational irregularities. The flow of such information is important not only for the individual resolution of a client's case but also for identifying systemic risks associated with the agent's activities (UKNF, n.d., pp. 25–27).

As a result, reporting, document circulation, and information sharing should form a structured system in which the agent does not act as an autonomous data source but as a link integrated into the investment firm's compliance and internal control system. Only then can the investment firm demonstrate that it exercises effective, rather than merely formal, supervision, and that it has the capacity to quickly detect irregularities and respond to them in a manner consistent with capital market requirements (ESMA, 2022, pp. 4–5; UKNF, n.d., p. 27).

2.3. Monitoring of complaints, documentation, and client communications

The monitoring of complaints, documentation, and client communication is among the most critical elements of supervision over an investment firm's agent, as it is precisely in these areas that irregularities regarding the manner of service provision, the quality of information provided to clients, and the compliance of sales practices with capital market regulations are most easily revealed. From a supervisory perspective, a client complaint is not merely an isolated incident but a source of insight into the operational, legal, and reputational risks

associated with the agent's activities. Therefore, the control system in this area should enable not only the resolution of individual cases but also the identification of recurring and systemic issues (JC 2018 35, 2018, pp. 4–5).

The UKNF's position clearly indicates that it is the investment firm, not the agent, that should handle client complaints regarding the agent's activities. The agent may participate in this process in a supporting role, for example by receiving the complaint or providing explanations, but should not play a decision-making role. This stems from the fact that complaints filed with an agent may concern both the agent's own actions and the activities of the investment firm itself, and a lack of full control over this process would hinder monitoring of deadlines, response quality, and sources of compliance risk. The UKNF also emphasizes that information from complaints should feed into a risk-based monitoring program prepared by the investment firm's compliance function.

This requirement aligns with EU standards for the organization of the complaints process. In accordance with ESMA and EBA guidelines, the firm should have a formal complaints-handling policy approved by management, maintain an internal register of complaints, analyze complaint data for recurring issues, and provide clients with clear information on how to file and have a complaint resolved (JC 2018 35, 2018, pp. 4–5). Of particular importance is the obligation to continuously analyze the causes of complaints, as this allows determining whether the source of the problem lies in the agent's communication style, faulty documentation, misrepresentation of the offer, or improper organization of the sales process.

Equally important is the control of documentation and the recording of client contacts. The UKNF indicates that an investment firm is required to record, store, and archive documents, telephone call recordings, electronic correspondence, and other information created, transmitted, or received in connection with the brokerage services provided, even when such services are performed with the involvement of an agent. An investment firm must therefore ensure that the agent complies with the rules governing the archiving and recording of client contacts, and this area should be included in periodic audits of the agent.

This obligation also has a clear basis in EU law. Delegated Regulation 2017/565 stipulates that investment firms must maintain effective and transparent complaint-handling procedures and keep a record of complaints received and actions taken to resolve them, as well as maintain record-keeping systems that allow the supervisory authority to assess the firm's compliance with MiFID II. In practice, this means that communication between an agent and a client cannot remain outside the investment firm's documentation system, as the firm is

responsible for being able to reconstruct the course of events and assess whether the client received information that was fair, clear, and not misleading (Commission Delegated Regulation (EU) 2017/565, 2017, Articles 26 and 72).

Monitoring of communication with the client should cover not only the content of responses to complaints but also the manner in which the offer is presented, the completeness of information provided to the client, and the agent's compliance with the investment firm's disclosure obligations. The UKNF indicates that the purpose of monitoring an agent's customer service is to determine how the agent, or persons acting within its structure, presents the investment firm's offer to clients and how they fulfill the obligations arising from the agency agreement, particularly regarding the quality of service provided to clients or potential clients. This means that supervision of communication should be both reactive, based on the analysis of complaints, and proactive, carried out through quality controls of client interactions.

As a result, the review of complaints, documentation, and client communications should be treated as an integrated area of supervision that combines the functions of client protection, compliance risk management, and the evidentiary safeguarding of the investment firm's operations. Only such a model allows for a realistic assessment of whether an agent performs agency activities in accordance with the law, the investment firm's standards, and the requirements of fair and transparent client contact (JC 2018 35, 2018, pp. 4–5; UKNF, n.d., pp. 19–20).

2.4. Remedial Measures and the Importance of Internal Control

Measures to restore compliance are an essential complement to the supervision of an investment firm's agent. The mere detection of a violation does not yet fulfill the supervisory objective if the investment firm lacks procedures allowing for the rapid rectification of irregularities, the assessment of their causes, and the mitigation of the risk of their recurrence. For this reason, supervision of the agent should encompass not only the identification of deficiencies but also corrective, escalation, and control mechanisms embedded within the investment firm's internal control system (ESMA, 2022, pp. 4–5; European Commission, 2017, Articles 21–22).

The UKNF's position clearly indicates that an investment firm should ensure systematic access to information on the measures the agent has taken to restore compliance. The results of control activities, information on detected violations, and the manner of their resolution should be reported to the investment firm so that it can assess both the irregularity itself and the effectiveness of the agent's response. This means that corrective measures cannot remain solely

within the scope of the agent's autonomous actions but must be assessed and verified by the investment firm (UKNF, n.d., p. 27).

Under EU law, this obligation stems from the general organizational requirements imposed on investment firms. Delegated Regulation 2017/565 requires investment firms to establish, implement, and maintain appropriate policies, procedures, and internal control mechanisms, and to regularly monitor and assess the adequacy and effectiveness of their control systems and mechanisms, taking appropriate measures to address any identified deficiencies. In practice, this means that any irregularity identified in an agent's activities should trigger not only an individual response but also an assessment of whether the problem stems from flaws in procedures, supervision, or the organization of cooperation with the agent (European Commission, 2017, Art. 21(1)–(2)).

The significance of internal control thus lies in the fact that it organizes corrective actions and gives them a systemic character. ESMA emphasizes that when using agents, investment firms should have effective control and oversight mechanisms in place, including policies, procedures, and measures to assess whether the agency model weakens compliance and client protection. In this context, measures to restore compliance are not limited to addressing a single breach but also serve to assess whether a change in procedures, intensified monitoring, additional training, modification of reporting rules, or even a reduction in the scope of cooperation with the agent is necessary (ESMA, 2022, pp. 3–5).

Internal control also serves evidentiary and managerial purposes. It demonstrates that the investment firm does not merely formally assign compliance responsibilities to an agent but actively responds to identified breaches and monitors the effectiveness of corrective actions. In this sense, the internal control system should encompass not only the identification of irregularities but also the documentation of corrective decisions, the monitoring of implementation deadlines, and an assessment of whether the restoration of compliance was sustainable. Only such an approach allows one to conclude that supervision of the agent is substantive rather than merely formal (UKNF, n.d., p. 27; European Commission, 2017, Art. 22).

As a result, compliance restoration measures and internal control should be treated as interrelated elements of a single supervisory system. Their function is not merely to react to breaches that have already occurred, but also to prevent the recurrence of violations and to strengthen the investment firm's ability to exercise ongoing and effective supervision over the agent (ESMA, 2022, p. 5; UKNF, n.d., p. 27).

2.5. The UKNF's Position as a Practical Model for Organizing Effective Supervision

The position of the Polish Financial Supervision Authority regarding the supervision of an investment firm's agent should be assessed not only as an interpretation of applicable regulations but also as a practical model for organizing effective supervision. This document does not merely reiterate the statutory obligations of an investment firm but also organizes, specifies, and translates them into operational solutions. In this sense, it serves a function similar to ESMA's EU supervisory guidance, which aims to build a common supervisory culture and promote uniform practices in the application of MiFID II (ESMA, 2022, p. 2; ESMA, 2022b, p. 5).

The practical value of the UKNF's position stems primarily from its combination of three levels of analysis. First, it explains the legal basis for an investment firm's liability for an agent. Second, it identifies key risk areas associated with the use of the agency model, including the agent's organizational structure, sub-agencies, conflicts of interest, compensation methods, complaint handling, and client communication. Third, it identifies specific supervisory tools that the investment firm should implement, including appropriate contractual provisions, reporting, customer service quality controls, verification of technical conditions, and the use of internal control resources and compliance functions (UKNF, n.d., pp. 5, 20–21, 27).

This approach means that the UKNF's position has significance beyond the mere interpretation of Article 79(6a) of the Act on Trading in Financial Instruments. This document demonstrates how to organize effective supervision rather than merely formal supervision. This is particularly important in light of ESMA's approach, which notes that the use of *tied agents* may lead to a weakening of compliance standards if the investment firm does not have adequate monitoring and control mechanisms in place and does not treat the agent as part of its own operational model (ESMA, 2022, pp. 3–5).

From a broader perspective, the UKNF's position can be classified as a “soft law” supervisory instrument. It does not create new statutory obligations but clarifies the interpretation of existing obligations and specifies the expected organizational standard for supervised entities. The literature emphasizes that such guidelines and guidance from EU authorities and agencies play a significant role in harmonizing legal practice and strengthening compliance, especially in highly technical and dynamically regulated areas (Vaughan, 2015, pp. 5–7; Fromage, 2025).

From the perspective of investment firms, the significance of the UKNF's position lies in its role as a model of “good supervisory practices” that can be used both for designing

relationships with agents and for evaluating existing organizational arrangements. This document sets out standards regarding agency agreements, internal controls, information flow, complaint handling, and monitoring the quality of the agent's activities, thereby strengthening client protection and reducing regulatory and reputational risks for the investment firm (UKNF, n.d., pp. 20–21, 27–28; European Commission, 2017, Art. 22).

Consequently, the UKNF's position should be regarded as a practical model for organizing effective supervision of an investment firm's agent. Its value stems not only from the supervisory authority's authority but, above all, from the fact that it combines statutory requirements, EU standards, and specific operational solutions into a single, coherent compliance model applicable in brokerage practice.

Summary

The analysis conducted leads to the conclusion that an investment firm's supervision of an investment firm agent cannot be treated as a purely formal obligation, limited to the conclusion of an agency agreement and periodic monitoring of selected activities. The framework adopted in both EU law and the Polish legal system is based on the assumption that the agent, despite its organizational and legal separateness, remains functionally integrated into the investment firm's brokerage operations, and the investment firm bears full and unconditional responsibility for the agent's actions (Directive 2014/65/EU, 2014, Art. 29(2); UKNF, n.d., pp. 2, 5). This means that the actual burden of compliance, client protection, and regulatory risk mitigation rests not on the agent itself, but on the investment firm as the licensed and supervised entity. In this sense, the issue of supervising the agent is not a technical matter but rather a key test of the effectiveness of the entire compliance system in investment activities (ESMA, 2022, pp. 3–5).

The significance of these findings therefore lies in the fact that they allow us to view the relationship between the investment firm and the agent not as a simple model of delegating activities, but as a specific form of organizing regulated activities that requires a constant flow of information, effective control procedures, proper handling of complaints, oversight of client communication, and readiness to quickly restore compliance following the disclosure of violations (UKNF, n.d., pp. 20–21, 27; European Commission, 2017, Articles 21–22). From this perspective, the UKNF's position should be regarded as a practically significant model for the organization of effective supervision, as it structures an investment firm's obligations in a manner useful not only for interpreting the law but also for developing practical mechanisms for client protection and trading security. Further research could focus on comparing the Polish

model of agent supervision with solutions adopted in other European Union countries, as well as on assessing the extent to which the development of digital distribution channels for investment services is changing the scope of risks associated with agents' activities and necessitating a redefinition of traditional supervisory tools.

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