



Auteur: Compliance fonction	COMPLAINTS HANDLING OPERATING PROCEDURE	N°0400-01
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INTRODUCTION

Applicable regulations

Term	Description
CSSF Regulation	<ul style="list-style-type: none">Regulation 16-07 relating to the out-of-court resolution of complaints.
CSSF Circulars	<ul style="list-style-type: none">Circular 17/671 “Details concerning CSSF Regulation No 16-07 of 26 October 2016 relating to the out-of-court resolution of complaints”.
	<ul style="list-style-type: none">Circular 18/698 “Authorisation and organisation of investment fund managers incorporated under Luxembourg law”.
	<ul style="list-style-type: none">Circular 19/718 “Adoption of Claims Processing Guidelines in the Securities Industry”

Purpose

In order to prevent and minimize potential damage to the business, employees, investors, clients and other related parties, the Authorised Management designed and implemented this complaints handling procedure (the “**Procedure**”).

The provisions described in this Procedure govern the manner in which complaints are recorded and dealt with. By implementing this Procedure the Company ensures that complaints are dealt with diligently and within an acceptable time frame.

A copy of the present Procedure is available to any client upon request and free of charge.

Definition of a complaint

A complaint can take various forms and the Company as well as each employee must pay particular attention to any indication given by the **complaining party not being satisfied with the level of service received** from the Company.

This applies also to the behaviour of the Company’s employees and service providers, which can as well not be at the level of the complaining party’s expectations.

Three different levels of complaints can be distinguished, not all of them being considered as reportable to the CSSF and subject to an out-of-court resolution of the complaint by the CSSF:

1. Verbal complaint
2. Written complaint received by email
3. Written complaint received by letter

Only a written complaint received by letter – as further described under section 3.4 of this Procedure - will engage the out-of-court complaint resolution process established by CSSF Regulation 16/07.

Prerequisites (cumulative conditions) to file a complaint of out-of-court resolution:

- the complaint must be aimed at a **professional entity** which is **supervised by the CSSF** (banks, professionals of the financial sector, investment firms, specialised professionals of the financial sector, support professionals of the financial sector, payment institutions, electronic money institutions etc.);
- the dispute must concern a **financial product**, a **financial service** or a **statutory audit**;
- the complaint must **not** concern the **business policy of the professional**;
- the complaint must have been **first submitted in writing to the person responsible for the complaint handling at the level of the management of the professional** aimed by the complainant (“manager responsible for complaint handling”);
- the complainant has **not** received a **satisfactory** answer nor an acknowledgement of receipt within **one month** as of the date the complaint was sent to the manager responsible for complaint handling;
- the complaint has **not previously been** or is not **currently being examined** by another alternative dispute resolution, an arbitrator, an arbitration tribunal or a court **in Luxembourg or abroad**;
- the complaint is not **unreasonable, frivolous or vexatious**;
- the complaint was **filed with the CSSF** within **one year** after the complainant has **filed a complaint with the professional aimed at by the complaint**;
- the **complaint handling** does not seriously **impair the efficient functioning of the CSSF**.

Review plan and maintenance

The Procedure is maintained and updated on an on-going basis by the Authorised Management.

Periodically, at least once a year, the Board of Directors (the “**Board**”) shall review and approve any subsequent amendments.

ORGANISATION AND RESPONSIBILITIES

Overview

In accordance with article 15 of the CSSF Regulation 16-07 the Company has appointed a Conducting Officer who is in charge of the treatment, centralisation and follow-up of the Complaints and is responsible for handling Complaints timely and with due diligence, transparency and objectivity. The Conducting Officer is encouraged to seek advice from the legal adviser as well as from the Board when and if deemed necessary.

Ongoing review and reporting

The Conducting Officer shall:

1. analyse the data relating to the complaint handling, on a permanent basis, in order to enable the identification a treatment of any recurring or systematic problem, as well as any potential legal and operational risks;
2. ensure that complaints are escalated as appropriate through internal channels and ultimately to the Board during the assessment phase and upon resolution; and

3. ensure that the Board is informed on a regular basis of all complaints received as regards to the complaints' nature, background, financial/legal/regulatory impact, the actions taken for resolution and steps to prevent reoccurrence.

The Conducting Officer keeps a record of all Complaints that is submitted quarterly to the Board of Directors' meeting.

The Conducting Officer shall provide to the CSSF with an annual report containing information about the Complaints received and settled (the "**Annual Complaints Handling Report**"). This report shall contain at least a table including the number of Complaints registered by the Company, classified by type of Complaints, as well as a summary report of the Complaints and of the measures taken to handle them.

This Annual Complaints Handling Report, after having been reviewed and approved by the Board, must be submitted to the CSSF within five months following the end of the financial year.

PROCESS

General

An employee receiving a complaint must immediately inform the Conducting Officer responsible for the handling of complaints ("Conducting Officer"). It is important to note that no employee can, in any case, be involved in dealing with any aspect of a complaint, except if instructed/authorised explicitly by the Conducting Officer.

If the complaint appears to be significant in terms of risk, reputation or financial impact for the Company, the Compliance Officer and/or the Conducting Officer responsible for the handling of complaints is responsible for informing immediately the Board who decides the course of action.

Verbal complaint

In case of a verbal complaint to one of the Company's employees, the employee should report it fairly to the Conducting Officer responsible for the handling of complaints who shall assess the level of importance of the complaint and take remedial steps if relevant.

In case the employee did not behave in accordance with the Company's standards, it is the responsibility of the Conducting Officer responsible for the handling of complaints to:

- discuss the matter with the employee in order to avoid reoccurrence in the future;
- manage the complaining party in case the complaint is not fair to the employee; and
- ensure that the complaining party and the employee are both treated fairly and find a common balance to close the complaint.

It is worth noting that the principles mentioned above are common sense and should therefore always govern the principles of complaint handling, regardless of the level of authority of the person involved in handling this process.

Written complaint received by email

In case of a written complain received by email to one of the Company's employees whereby the Conducting Officer responsible for the handling of complaints is not copied to the initial email from the complaining party, the employee should report it fairly to the Conducting Officer and seek advice as to how to remedy to the situation and more importantly, how to communicate with the plaintiff on the matter exposed.

Practically this means that the employee should forward the email to the Conducting Officer and either suggest a response, or ask for an advice.

Written complaint received by letter

Only this level of complaint opens the possibility for the plaintiff to engage in the out-of-court complaint resolution, as set by the CSSF Regulation 16/07. Complaints received by email will be managed in accordance with Section 3.3 above.

The Conducting Officer responsible for the handling of complaints will consider that written complaints are to be valid as soon as the following conditions are cumulatively met:

- The letter is dated, addressed to the registered address of the Company,
- The letter is signed by legal representatives of the plaintiff in accordance with signatory powers set by the Articles of the plaintiff,
- The signatories are authorised to engage the company as per recent register of commerce extract – to be retrieved by the Conducting Officer in charge of complaints handling,
- The plaintiff is or has been a client (in the widest sense) of the Company.

In all cases, the Conducting Officer responsible for the handling of complaints determines whether an appropriate detailed answer can be provided within ten (10) business days following the date of the receipt of the written complaint received by letter.

If yes,

- The Conducting Officer responsible for the handling of complaints prepares the answer to the complaints, with the cooperation of the service providers if necessary.
- The Conducting Officer responsible for the handling of complaints shall seek approval from the Board before sending the letter by courier with A/R.

If an appropriate detailed answer cannot be provided within ten (10) business days following the date of receipt of the written complaint because some research work is required,

- A first letter is addressed to the client within ten (10) business days following the date of receipt of the complaint. This letter states that the complaint is being investigated and:
 - o provides the client with the name and contact details of the Conducting Officer in charge of handling the complaint.
 - o mentions the possibility to the complainant to ask for a copy of the complaints handling procedure –or a summary
 - o indicates the timeframe needed to respond.
- A second letter with the final answer is prepared in a reasonable timeframe.

In order to handle the written complaint, the Conducting Officer may, inter alia:

- Seek to gather and to investigate all relevant evidence and information;
- Contact the author of such complaint to get more information on the substance of the complaint;
- Contact the service provider or other parties that are subject of the complaint to inform them of the complaint and seek further information and a response from them.
- Require the intervention of a lawyer at the Company's expense.

In case the response provided solves the written complaint at the satisfaction of the client, no further action is necessary other than stating the date of sending of the response in the Complaint records (by the Conducting Officer).

In case the response has not satisfied the complaining party, three possibilities remain:

1. The client involves the CSSF as per Section 4 below in accordance with CSSF Regulation 16/07.
2. A legal action is initiated by either the client, or the Company. This procedure is no longer applicable, as focusing on out of court complaints resolution
3. A second letter is received from the complaining party, addressing the points made by the Company and considering the answer received as unsatisfactory, therefore requiring a response from the Company.

In this case,

- o The client is notified in writing of the possibility to involve CSSF as per Section 4
- o the same process as described above should apply until the complaint is notified by the client as being closed or:

If the written complaint is not an actual complaint or is not based on solid ground, the Conducting Officer responsible for the handling of complaints prepares a letter explaining the reasons why the complaint has been considered as not valid, in accordance with the prescriptive criteria set by the applicable CSSF Circular. The Conducting Officer submits it for review to the service provider (if subject of the complaint).

All letters to clients relating to written complaints must be reviewed and approved by the Conducting Officer responsible for the handling of complaints and signed – or acknowledged by way of the Minutes of the Conducting Officers meeting - by the Authorised Management of the Company.

All investors complaints open shall be discussed at the occasion of the Management (conducting Officers) meeting - until closure.

Administrative recording

The Conducting Officer responsible for the handling of complaints updates the complaints register with the answers and ensure that all incoming and outgoing correspondence are duly archived into the corporate files of the Company. The complaints register shall also contain a record of the measures taken to answer each of the complaints. A copy of the complaints register is annexed in **Appendix 1**.

Any relevant documents related to the complaint and/or handling of the complaints will be archived and retained for a period of five (5) years from end of relationship with Counterparty.

ESCALATING PROCEDURE AND OUT-OF-COURT RESOLUTION

Overview

Subject to the condition that a complaint has been previously dealt with by the Conducting Officer and where the client did not receive an answer or a satisfactory answer within one (1) month from the date at which the complaint was sent, he/she/it may file his/her/its request with the CSSF, pursuant to the provisions of the CSSF Regulation 16-07.

The detailed procedure for contacting CSSF can be found under the following link:

[Customer complaints – CSSF
FAQ Complaints \(cssf.lu\)](#)

CSSF Regulation 16-07

In accordance with article 5(2) of the CSSF Regulation 16-07:

The request shall be supported by a statement of the reasons on which it is based together with, inter alia, the following documents:

- *a detailed and chronological statement of the facts underlying the complaint and the steps already taken by the applicant;*
- *a copy of the prior complaint referred to in paragraph (1);*
- *a copy of the answer to the prior complaint or the confirmation by the applicant that s/he did not receive an answer within one month from the date at which s/he sent his/her prior complaint;*
- *the statement of the applicant that s/he did not refer the matter to a Court, an arbitrator or another alternative dispute resolution body in Luxembourg or abroad;*
- *the agreement of the applicant with the request handling conditions of the CSSF as the body responsible for the out-of-court resolution of his/her complaint;*
- *the express authorisation of the applicant so that the CSSF can transmit its request (including the attachments) as well as any future correspondence or information to the professional concerned by the request;*
- *in the case where a person acts on behalf of an applicant in accordance with paragraph (8) or on behalf of a legal person, a document showing that the person is legally entitled to act so;*
- *a copy of a valid ID document of the applicant (natural person) or, where the applicant is a legal person, of the natural person representing this legal person.*

A copy of the request will be transmitted to the Conducting Officer by the CSSF, with the request to take position within a period up to one (1) month from the date at which the Conducting Officer receives the file, and the Client will be duly informed of such transmission.

Once the CSSF will have received the position from the Conducting Officer responsible for the handling of complaints, it will begin to analyse the request.

In accordance with article 5(6), when the CSSF analyse will be completed, the CSSF will address, within a ninety (90) day period (or more in case of complex files), a conclusion letter to the parties, including the statement of reasons for the position taken. Such ninety (90) day period starts running when the CSSF receives a request that meets the conditions set out in article 5(2) of the CSSF Regulation 16-07 and in particular when the CSSF has received from the applicant all the documents referred to therein, which are necessary to the initiation of the procedure.

The CSSF may conclude that:

- the request is totally or partly justified, and ask the parties to contact each other to settle their dispute in view of the reasoned conclusion and to inform it of the follow-up; or
- the positions of the parties are irreconcilable or unverifiable, and then inform the parties thereof in writing.

The reasoned conclusions of the CSSF are however not binding on the parties, which therefore are free to accept or refuse to follow them, and have still the possibility to refer the matter before the competent courts.

In accordance with article 5(10) of the CSSF Regulation 16-07:

The procedure ends:

- *by the sending of a reasoned conclusion letter within the meaning of the first sub-paragraph of paragraph (6) of article 5, or by the sending of a letter within the meaning of the second sub-paragraph of paragraph (6) of article 5;*
- *by the reaching of an amicable settlement between the professional and the applicant during the procedure of which the CSSF is informed;*
- *in case of an applicant's written withdrawal which may occur at any time during the procedure;*
- *where the right on which the complaint is based is time-barred and where the professional claims that the time period for exercising that right has expired;*
- *where a Luxembourg or foreign court or arbitrator has the complaint submitted to it;*
- *where an out-of-court complaint settlement body other than the CSSF from Luxembourg or abroad has the complaint submitted to it;*
- *where the applicant does not provide the additional documents, information, explanations or positions requested by the CSSF within the period set by the CSSF or, where no period has been set by the CSSF, within 45 days.*

APPENDIX 1: CSSF COMPLAINTS FORM

Interactive form is available on the CSSF website:

[CSSF - Réclamation](#)

APPENDIX 2: CONTACT DETAILS

- Letter at:
Dynasty AM
Attn: Managing Director (in charge of the permanent compliance function)
16 Avenue Marie-Thérèse
L-2132 Luxembourg
- By phone : + 352 24 69 77 642
- Email address: contact@dynasty-am.lu

APPENDIX 3: COMPLAINTS REGISTER



Complaints
register.xlsx