

## **INVESTMENT SERVICES RULES FOR INVESTMENT SERVICES PROVIDERS**

### **PART B: STANDARD LICENCE CONDITIONS**

#### **Appendix 16**

#### **Complaints Handling**

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### **1 INTRODUCTION**

**1.01** The SLCs prescribed in this Appendix are applicable to UCITS Management Companies (in accordance with Part BII to these Rules) and AIFMS that have been authorised to provide investment services, in accordance with SLC 1.04 of Part BIII to these Rules.

### **2 COMPLAINTS HANDLING**

#### **2.01 Complaints Management Policy**

Licence Holders shall ensure that a complaints management policy is put in place and set out in a written document. This policy shall be defined and endorsed by the Licence Holder's senior management, which shall also be responsible for its implementation and for monitoring compliance with it.

The complaints management policy shall be made available to all relevant staff of the Licence Holder through an adequate internal channel.

#### **2.02 Complaints Management Function**

Licence Holders shall have in place a complaints management function which enables complaints to be investigated fairly and possible conflicts of interest to be identified and mitigated.

## **2.03 Registration**

Licence Holders shall maintain a register in which every complaint and the action taken in its regard is recorded. It is advisable that such register also include, for each complaint, the date on which it was received and the date on which it was resolved. The MFSA may at any time require the register to be produced for its review.

## **2.04 Reporting**

Licence Holders shall provide information on complaints and complaints handling to the MFSA as and when required. This data shall cover the number of complaints received, differentiated as appropriate or as indicated in any criteria that the MFSA may from time to time establish.

## **2.05 Internal Follow-Up of Complaints Handling**

Licence Holders shall analyse complaints-handling data on an on-going basis in order to ensure that they identify and address any recurring or systemic problems and any potential legal and operational risks by, for instance, carrying out the following:

- (a) analysing the causes of individual complaints so as to identify root causes common to types of complaint;
- (b) considering whether such root causes may also affect other processes or products, including those not directly complained of; and
- (c) correcting, where reasonable to do so, such root causes.

## **2.06 Provision of Information**

Licence Holders shall:

- (a) on request or when acknowledging receipt of a complaint, provide written information regarding their complaints handling process;

- (b) publish details of their complaints handling process in an easily accessible manner (for example, in brochures, pamphlets, contractual documents or via the Licence Holder's website);
- (c) provide clear, accurate and up-to-date information about the complaints-handling process including:
  - i. details of how to make a complaint (for example, the type of information to be provided by the complainant and the identity and contact details of the person or department to whom the complaint should be directed); and
  - ii. the process that will be followed when handling a complaint (for example, when the complaint will be acknowledged, an indication of handling timelines, and the availability of the Office of the Arbiter for Financial Services and of alternative dispute resolution (ADR) mechanisms in the case that a dispute remains unresolved).
- (d) keep the complainant informed about further handling of the complaint.

## **2.07 Procedure for Responding to Complaints**

Licence Holders shall ensure that the following procedures are followed:

- (a) The Licence Holder shall, in writing, acknowledge receipt of any complaint within seven days of such receipt and shall also provide confirmation of the following:
  - i. the Licence Holder shall investigate the complaint;
  - ii. the Licence Holder shall, on completion of the investigation and without unnecessary delay, write to the complainant concerning the outcome of the investigation and describing its proposed course of action; and
  - iii. if the investigation is not completed within two months of receipt of the complaint, the Licence Holder shall inform the

complainant of such fact within seven business days from the end of that period.

- (b) where a complaint is made orally, the Licence Holder shall make a summary of the complaint and request the complainant to confirm in writing the said summary;
- (c) the Licence Holder shall seek to gather and investigate all relevant evidence and information regarding the complaint;
- (d) where the investigation of a complaint is not completed within two months from receipt of the complaint, the Licence Holder shall, in the communication referred to in point (iii) of point (a) above:
  - i. inform the complainant about the causes of the delay;
  - ii. provide an indication as to when the investigation is likely to be completed; and
  - iii. inform the complainant that, if the complainant is not satisfied with the progress of the investigation, the matter may be referred by him to the Office of the Arbiter for Financial Services;
- (e) when providing a final decision that does not fully satisfy the complainant's demand, the Licence Holder shall provide a thorough explanation of the Licence Holder's position on the complaint and set out the complainant's option to maintain the complaint.