

## **INVESTMENT SERVICES RULES FOR RETAIL COLLECTIVE INVESTMENT SCHEMES**

### **PART B**

#### **APPENDIX X: COMPLAINTS HANDLING**

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##### **1 INTRODUCTION**

- 1.01 This Appendix prescribes the complaints handling procedures that are required to be maintained by retail collective investment schemes whether established as UCITs or retail AIFs whether these are self-managed or third-party managed.

##### **2 COMPLAINTS HANDLING**

➤ *Complaints management policy*

- 2.01 The scheme or the management company on behalf of the scheme 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 senior management of the scheme, which shall also be responsible for its implementation and for monitoring compliance with it.
- 2.02 The complaints management policy shall be made available to all relevant staff of the scheme through an adequate internal channel.

➤ *Complaints management function*

- 2.03 The scheme 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.

➤ *Registration*

- 2.04 The scheme or the management company on behalf of the scheme 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.

➤ *Reporting*

- 2.05 The scheme or the management company on behalf of the scheme 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.

➤ *Internal follow-up of complaints handling*

2.06 The scheme or the management company on behalf of the scheme 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.

➤ *Provision of information*

2.07 The scheme or the management company on behalf of the scheme 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 scheme'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 Consumer Complaints Unit within the MFSA, and/or of the Office of the Financial Services Arbiter 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.

➤ *Procedure for responding to complaints*

2.08 The scheme or the management company on behalf of the scheme shall ensure that the following procedures are followed:

- (a) the scheme or the management company on behalf of the scheme shall, in writing, acknowledge receipt of any complaint within seven days of such receipt and shall also provide confirmation of the following:
  - i. the scheme or the management company on behalf of the scheme shall investigate the complaint;
  - ii. the scheme or the management company on behalf of the scheme 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 scheme or the management company on behalf of the scheme 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 scheme or the management company on behalf of the scheme shall make a summary of the complaint and request the complainant to confirm in writing the said summary;
- (c) the scheme or the management company on behalf of the scheme 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 scheme or the management company on behalf of the scheme shall, in the communication referred to in indent (iii) of paragraph (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 Consumer Complaints Unit within the MFSA and/or of the Office of the Financial Services Arbiter;
- (e) when providing a final decision that does not fully satisfy the complainant's demand, the scheme or the management company on behalf of the scheme shall provide a thorough explanation of the its position on the complaint and set out the complainant's option to maintain the complaint (for example, by having recourse to the Consumer Complaints Unit within the MFSA and/or of the Office of the Financial Services Arbiter or to ADR mechanisms).

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