
TO : **Cyprus Investment Firms**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **7 October 2019**

CIRCULAR No : **C338**

SUBJECT : **Guidelines on complaints-handling for the securities sector – Handling of client’s complaints by CIFs**

GUIDELINES

The Cyprus Securities and Exchange Commission (“CySEC”) wishes, with this circular, to inform the Cyprus Investment Firms (“CIF”) that the European Securities and Markets Authority (“ESMA”) and the European Banking Authority (“EBA”), have reissued on October 4th 2018, the guidelines on complaints-handling for the securities and banking sectors (“[Guidelines](#)”), (JC 2018 35) in order for the Guidelines to apply to additional financial market participants.

It is clarified that the [guidelines](#) published on 27th May 2014 on complaints-handling for the securities (ESMA) and banking (EBA) sectors (JC 2014 43), are repealed as of 1st May 2019.

The Guidelines apply to authorities competent for supervising complaints-handling by firms in their jurisdiction. This includes circumstances where the competent authority supervises complaints-handling under EU and national law by firms doing business in their jurisdiction under freedom of services or freedom of establishment.

In order to ensure the adequate protection of consumers, these guidelines seek to:

- clarify expectations relating to firms’ organisation relating to complaints-handling;
- provide guidance on the provision of information to complainants;
- provide guidance on procedures for responding to complaints;
- harmonise the arrangements of firms for the handling of all complaints they receive; and

- ensure that firms' arrangements for complaints-handling are subject to a minimum level of supervisory convergence across the EU.

The Guidelines do not apply where a firm receives a complaint about:

- activities other than those supervised by 'competent authorities' pursuant to Article 4(3) of the ESMA¹ Regulation, or Article 4(2) of the EBA² Regulation, or Article 5 of the Mortgage Credit Directive; or
- the activities of another entity for which that firm has no legal or regulatory responsibility (and where those activities form the substance of the complaint).

However, that firm should respond, where possible, explaining the firm's position on the complaint and/or, where appropriate, giving details of the firm or other financial institution responsible for handling the complaint.

CySEC adopts the Guidelines by incorporating them into its supervisory practices.

COMPLAINTS HANDLING

Furthermore, CySEC wishes to remind the CIFs of their obligations emanating under article 26 of the Regulation 2017/565³ ("Regulation") as regards the complaints handling and to inform the CIFs that this Circular replaces Circular C100 ("C100") on clients' complaints handling by CIFs and the Circular C198 on changes in the form regarding the submission of complaints (Form XX_yyyymmdd_T144-002-01), ("C198").

A. Maintaining internal register

For the purposes of compliance with paragraph 26 of the Regulation providing that a CIF shall keep a record of the complaints received and the measures taken for their resolution, CySEC expects CIF to apply the following:

- i. Upon receiving the complaint, the CIF must register the complaint directly to an internal register, giving it a **unique reference number**.

The unique reference number must be consisted of ten digits:

- the first two digits are the code of the CIF regarding the Transaction Reporting System - TRS

¹ ESMA – Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC.

² EBA – Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC

³ COMMISSION DELEGATED REGULATION (EU) 2017/565, of 25 April 2016, supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive

- the following four digits define the year, and
 - the last four digits denote the number of each complaint serial number (e.g. for 2018 - AA20180001, AA20180002, for 2019 - AA20190001, AA20190002).
- ii. The unique reference number is communicated to the complainant.
- iii. The CIF informs the complainant that he should use the said reference number in all future contact with the CIF, the Financial Ombudsman and/or the CySEC regarding the specific complaint.

B. Informing the complainant

The CIF confirms, within five days, the receiving of the complaint to the complainant.

The CIF investigates the complaint and replies, within two months, to the complainant about the outcome/decision. During the investigation of the complaint, the CIF informs the complainant of the handling process of his/hers complaint.

In the event that the CIF is unable to respond within two months, the CIF informs the complainant of the reasons for the delay and indicates the period of time within which it is possible to complete the investigation. This period of time cannot exceed three months from the period of submission of the complaint.

C. Submission of information to the CySEC

Every month, the CIF provides to CySEC, information regarding the complaints received and how these are being handled.

In particular, the CIF completes every month (reporting month) the form XX_yyyymmdd_COMP-CIF (excel file) of **Annex 1** and sends it to CySEC within five days after the reporting month. The form XX_yyyymmdd_COMP-CIF is sent in electronic form via the TRS. All relevant details for completing and sending the form XX_yyyymmdd_COMP-CIF are referred to in **Annex 2**.

It is highlighted that except from changing the name of the form from XX_yyyymmdd_T144-002-01 to XX_yyyymmdd_COMP-CIF, its content and the way it is submitted remain the same, as per the provisions of C100 and C198.

The form XX_yyyymmdd_COMP-CIF has to be submitted from 8 October 2019 onwards.

Yours sincerely

Demetra Kalogerou
Chairwoman of the Cyprus Securities and Exchange Commission