

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 27 June 2014

To all professionals subject to the
prudential supervision of the CSSF

CIRCULAR CSSF 14/589

Re: Details concerning CSSF Regulation N°13-02 of 15 October 2013 relating to the out-of-court resolution of complaints

Ladies and Gentlemen,

This CSSF circular aims to clarify the implementation of CSSF Regulation N°13-02 relating to the out-of-court resolution of complaints ("CSSF Regulation N°13-02") by the supervised institutions.

CSSF Regulation N°13-02 was published in Mémorial A – N°187 of 28 October 2013. Sections 1 and 3, which include provisions on the handling of requests for the out-of-court resolution of complaints filed with the CSSF, entered into force on 1 January 2014.

Section 2 of CSSF Regulation N° 13-02, which specifies certain obligations incumbent upon professionals regarding the handling of complaints, will enter into force on 1 July 2014. As from this date, professionals of the financial sector will have to adapt their internal procedures to the requirements of the new CSSF Regulation.

CSSF Regulation N° 13-02 aims to implement a clearly defined regulatory framework for complaint handling in order to serve the best interest of the complainants and to ensure efficient complaint management within the supervised institutions.

Out-of-court complaint resolution has been dealt with so far in Circular IML 95/118 relating to customer complaint handling. CSSF Regulation N°13-02 was drafted in order to modernize the framework of said Circular and in order to specify certain obligations incumbent upon professionals with the aim to ensure adequate internal handling of complaints received by professionals.

CSSF Regulation N° 13-02 already takes into account, pending their transposition into national law, the principles of Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC, as well as the (ninth) Principle on "Complaints Handling and Redress" included in the Ten G20 High-Level Principles on Financial Consumer Protection drafted by the OECD and published in October 2011 and the "Guidelines for handling consumer complaints in the securities (ESMA) and banking sectors (EBA)" drafted by the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA).

1. Procedure for complaint handling at professionals

The professionals under the prudential supervision of the CSSF shall have a complaint management policy that is set out in a written document and formalised in an internal complaint settlement procedure. This procedure shall be efficient and transparent, in view of the reasonable and prompt complaint handling. It shall include all aspects of complaint handling within the institution and specify the terms and conditions applicable where the complaints are handled at the level of the professional and where the CSSF is involved in the handling of a request for the out-of-court resolution of a complaint, respectively.

The professionals shall ensure that each complaint as well as the measure(s) taken to handle them are properly registered. The registration arrangements are left to be determined by each professional, with respect to the number of complaints received. However, the registration shall be at least computerised and secured.

It is essential that a good internal organisation of complaint handling is put in place in order to ensure full compliance with all the provisions of CSSF Regulation N°13-02.

In this respect, Articles 15 and 16 of CSSF Regulation N°13-02 include a description of the conduct to be followed by professionals within the context of the handling of the complaints submitted to it. Each complaint shall, at all times, be properly handled and within a reasonable time, in view of the nature of the problem raised in the best interest of the complainants. No complaint shall remain unanswered by the professional. The measures referred to in Article 15 and 16 of CSSF Regulation N° 13-02 are not exhaustive and should be completed when this proves necessary in the light of the number or the complexity of the complaints. This may include the establishment of a telephone hotline/call centre dedicated to complaints.

2. Director in charge of the complaints - Details on Article 15

The professional's management is in charge of implementing, within the institution, the policy and procedures relating to the provisions of CSSF Regulation N° 13-02. The policies and procedures shall be laid down in writing. The professional's management shall ensure the correct application of these policies and procedures. It entrusts one of its members with the task of handling complaints.

The director in charge shall inform the relevant staff of its institution of the policies and procedures required by CSSF Regulation N° 13-02 and any change thereto.

The director in charge shall determine the human and technical means required to properly implement the policies and the procedures in question. S/he shall ensure that compliance with these policies and relevant procedures is checked by the compliance function of the professional and its internal audit function on a regular basis.

The internal procedure of the professional shall organise the communication to the director in charge of all the necessary data on the complaints received at all levels. In particular, these data shall describe the problems identified, the corrective measures taken and the follow-up on these measures.

When, in view of the nature, the number or complexity of the complaints, the professional considers that it is appropriate to designate one or several persons in charge of the complaints, the director in charge may delegate the management of these complaints internally provided that the CSSF is notified on the arrangements to ensure the full implementation of the provisions of Section 2 of CSSF Regulation N°13-02 beforehand. However, the director in charge shall keep ongoing knowledge and control of the handling of the complaints internally. Vis-à-vis the CSSF, the director in charge remains the sole contact person.

Moreover, the professionals shall ensure that each complainant is informed of the name and contact information of the person in charge of his/her file. As far as possible, that person will be the contact person of the complainant throughout the internal handling procedure as regards his/her complaint.

3. Communication of information to the CSSF

Article 16 of CSSF Regulation N°13-02 provides that the manager in charge is required to communicate to the CSSF, on an annual basis, a table including the number of complaints registered by the professional, classified by type of complaints, as well as a summary report of the complaints and of the measures taken to handle them.

In accordance with CSSF Regulation N°13-02, a complaint shall mean a "complaint filed with a professional to recognise a right or to redress a harm". Thus, simple requests for information or clarification cannot be considered as complaints.

The CSSF provides professionals with a sample form allowing satisfying the requirement to communicate a table including the number of complaints registered by the professional, classified by type of complaints. That form is attached to this circular. Professionals may, where appropriate, use another table model if the latter better suits their situation.

As Article 16 of CSSF Regulation N°13-02 enters into force on 1 July 2014, the first documents (table and report) shall be transmitted to the CSSF (to the attention of the relevant prudential supervision department) at the latest on 1 March 2015 and shall cover the period from 1 July 2014 to 31 December. Eventually, the documents (table and report) shall be communicated no later than 1 March of each year and shall cover the previous calendar year. As regards the management companies referred to in Article 2 of CSSF Regulation N° 10-04, this communication should be received by the CSSF at the latest one month after the ordinary general meeting having approved the annual accounts of the management company.

4. Repeal of Circular IML 95/118 concerning customer complaint handling

Circular IML 95/118 concerning customer complaint handling is hereby repealed.

Yours faithfully,

COMMISSION de SURVEILLANCE du SECTEUR FINANCIER

Claude SIMON
Director

Andrée BILLON
Director

Simone DELCOURT
Director

Jean GUILL
Director General

ANNEX

**Table listing the claims registered
by the professional (sub-paragraph
1 of Article 16(3) of CSSF
Regulation N°13-02 relating to the
out-of-court resolution of
complaints)**

1. GENERAL DATA ON YOUR INSTITUTION

1.1 Name of the institution _____

1.2 Identification number* _____

1.3 Name of the director in charge of complaint handling _____

2. COMPLAINTS REGISTERED BY YOUR INSTITUTION

2.1. General information on complaints

2.1.1. Reference period

From _____ to _____

2.1.2. Total number of complaints received by your institution during the reference period _____

2.2. Number of complaints by category

Categories

Number of complaints

Complaints that do not relate to a specific product or service

Staff behaviour _____

Banking secrecy _____

Provision of documents (statements, etc.) _____

Others (please specify) _____

TOTAL _____

Accounts and payment services

Account opening refusal _____

Account termination _____

Account blocking _____

Dispute of a transaction _____

Pricing _____

Others (please specify) _____

TOTAL _____

* Including letter "B" (Bank), "P" (PFS), etc. indicating the type of activity of the institution

Savings products	
Savings account termination	_____
Yield	_____
Others (please specify) _____	_____
_____	_____
TOTAL	_____
Consumer credits	
Loan refusal	_____
Loan termination	_____
Request for debt restructuring	_____
Early repayment	_____
Interest rate	_____
Pricing	_____
Others (please specify) _____	_____
_____	_____
TOTAL	_____
Mortgage loans	
Loan refusal	_____
Loan termination	_____
Request for debt restructuring	_____
Early repayment	_____
Interest rate	_____
Pricing	_____
Others (please specify) _____	_____
_____	_____
TOTAL	_____
Home loan and savings accounts	
Contract termination	_____
Yield	_____
Early repayment	_____
Pricing	_____
Others (please specify) _____	_____
_____	_____
TOTAL	_____

Payment cards	
Card refusal	_____
Card withdrawal	_____
Unauthorised use	_____
Pricing	_____
Others (please specify) _____	_____
_____	_____
TOTAL	_____
Web Banking	
Service unavailable	_____
Technical failure	_____
Others (please specify) _____	_____
TOTAL	_____
Safe	
Access to safe	_____
Pricing	_____
Others (please specify) _____	_____
_____	_____
TOTAL	_____
Investment activities	
Conflict of interests	_____
Dispute on order execution	_____
Quality of advice	_____
Non-observance of the client's investment profile	_____
Non-compliance with the management agreement	_____
Pricing/Fees	_____
Others (please specify)	_____
_____	_____
TOTAL	_____
Undertakings for collective investment	
Prospectus	_____
Investment policy	_____
Subscription/Redemption of shares/units	_____
Advertising document	_____
Others (please specify)	_____
_____	_____
TOTAL	_____

Other categories of complaints (please specify)	
_____	_____
_____	_____
_____	_____
_____	_____
TOTAL	_____
Other categories of complaints (please specify)	
_____	_____
_____	_____
_____	_____
_____	_____
TOTAL	_____
Other categories of complaints (please specify)	
_____	_____
_____	_____
_____	_____
_____	_____
TOTAL	_____