

EBA CP/2023/34

9 November 2023

Consultation Paper

Draft Guidelines

on complaints-handling of credit servicers under Directive (EU)
2021/2167

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Abbreviations

CA	Competent Authority
CP	Consultation Paper
CSD	Credit Servicers Directive – Referring to Directive 2021/2167 in credit servicers and credit purchasers ¹
EBA	European Banking Authority
EIOPA	European Insurance and Occupational Pensions Authority
ESMA	European Securities and Markets Authority
ESFS	European System of Financial Supervision
JC	Joint Committee
MCD	Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property (the Mortgage Credit Directive)
MS	Member States
NPL	Non-Performing Loans
PSR	European Commission proposal for a new Payments services Regulation amending Regulation (EU) No 1093/2010 ²

¹ [Directive \(EU\) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU \(Text with EEA relevance\), OJ L 438, 8.12.2021, p. 1–37](#)

² [Proposal for a Regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation \(EU\) No 1093/2010, COM/2023/367 final, 28 June 2023.](#)

1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 9 February 2024. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

Directive (EU) 2021/2167 on credit servicers and credit purchasers (Credit Servicers Directive – CSD, at times also referred to as the ‘NPL Directive’ or ‘Loan Servicers Directive’) was published on 8 December 2021 and EU Member States are required to adopt and publish the national measures to transpose the provisions of the Directive by 29 December 2023.

The main purpose of the Directive is to foster the development of secondary markets for non-performing loans (NPLs) in the Union, by removing impediments to, and laying down safeguards for, the transfer of NPLs by credit institutions to credit purchasers, while at the same time safeguarding borrowers’ rights. It provides for a Union-wide regulatory arrangement for both the purchasers and servicers of such credit agreements.

As sets out in recital 50 of the Directive, the performance of secondary markets for credit will depend to a large extent on the good reputation of the entities involved. For this reason, Article 24 (1) of the Directive provides that “Member States shall ensure that credit servicers establish and maintain effective and transparent procedures for the handling of complaints from borrowers”.

With the aim of bringing about consistent, efficient and effective supervisory practices and a high level of consumer protection across all EU Member States during the transposition of the Directive, the EBA is proposing in this consultation paper draft Guidelines addressed to competent authorities under the CSD. The proposed Guidelines extend to credit servicers under Directive 2021/2167 the application of the existing Joint Committee Guidelines (JC Guidelines) on complaints-handling. The JC Guidelines were developed by the three European Supervisory Authorities (ESAs) and apply across the banking, investment and insurance sectors since 2014.

The proposed Guidelines specify the requirement in relation to credit servicers to establish and maintain effective and transparent procedures for the handling of complaints from borrowers in accordance with Article 24(1) of Directive (EU) 2021/2167. They cover the subject matter, scope, addressees, definitions and are identical to the aforementioned JC Guidelines, i.e. the complaints management policy, complaints management function, registration, reporting, internal follow-up, provision of information, and procedures for responding to complaints.

Next steps

The public consultation will be closed on 9 February 2024. The final Guidelines will be published after the consultation period.

3. Background and rationale

3.1 Background

1. Directive (EU) 2021/2167 on credit servicers and credit purchasers (Credit Servicers Directive – CSD, at times also referred to as the ‘NPL Directive’ or ‘Loan Servicers Directive’) was published on 8 December 2021 and EU Member States are required to adopt and publish the national measures to transpose the provisions of the Directive by 29 December 2023.
2. The main purpose of the Directive is to foster the development of secondary markets for non-performing loans (NPLs) in the Union, by removing impediments to, and laying down safeguards for, the transfer of NPLs by credit institutions to credit purchasers, while at the same time safeguarding borrowers’ rights. It provides for a Union-wide regulatory arrangement for both the purchasers and servicers of such credit agreements.
3. As sets out in recital 50 of the Directive, the performance of secondary markets for credit will depend to a large extent on the good reputation of the entities involved. For this reason, Article 24 (1) of the Directive provides that “Member States shall ensure that credit servicers establish and maintain effective and transparent procedures for the handling of complaints from borrowers”. With the aim of bringing about consistent, efficient and effective supervisory practices and a high level of consumer protection across all EU Member States during the transposition of the Directive, the EBA is proposing in this consultation paper draft Guidelines addressed to competent authorities under the CSD.
4. The draft Guidelines propose to apply to the credit servicers the existing JC Guidelines on complaints handling, that the three European Supervisory Authorities (ESAs) developed and implemented since 2014 across the banking, investment and insurance sectors, as explained in more detail in the rationale chapter below.
5. These Guidelines are based on Article 16 of Regulation (EU) No 1093/2010, paragraph 3 of which requires CAs and credit servicers are thus required to make every effort to comply with these Guidelines.

3.2 Rationale

6. In June 2012, the European Insurance and Occupational Pensions Authority (EIOPA) published its 'Guidelines on Complaints-Handling by Insurance Undertakings'³. In June 2014, ESMA and the EBA read across these Guidelines to the investment and banking sectors respectively and adopted them as JC GLs for complaints-handling for the securities and banking sectors⁴. Several years later, in 2018, the EBA extended the legal entity scope of the Guidelines⁵, to also include the new institutions established under the revised Payment Service Directive (PSD2) and the Mortgage Credit Directive (MCD), i.e. mortgage credit intermediaries, account information service providers, and payment initiation service providers. The content of the Guidelines remained unchanged.
7. Furthermore, in 2021, the JC published a Report on the application of their Guidelines on complaints-handling⁶, which concluded that the Guidelines have contributed to a consistent approach to complaints-handling across the banking, insurance and securities sectors, have resulted in better outcomes for consumers, and crucially were still fit for purpose and did not require any revision.
8. In order to ensure that complaints handling requirements applicable to credit servicers will be implemented and supervised with the same effect as for other financial institutions and consistently so across the 27 EU MS, the EBA proposes to apply the JC Guidelines to credit servicers. The proposed Guidelines are addressed to CAs and set out how to give effect to the provisions in Article 24 of the Directive, and thus contribute to the EBA's objective of improving the functioning of the internal market and enhancing customer and consumer protection.
9. The existing JC Guidelines on complaints handling represent an identical set of requirements that has been uniformly applicable for many years to financial institutions across the banking, investment and insurance sectors. The Guidelines are therefore to the benefit of:
 - i. consumers, who will be able to rely on the same approach irrespective of what type of product they have purchased and where they have purchased it within the EU, thereby improving consumer confidence in financial services,
 - ii. firms, some of which may sell products from more than one sector, and

³ [EIOPA Guidelines on Complaints-Handling by Insurance Undertakings, EIOPA-BoS-12/069, 14 June 2012](#)

⁴ [Joint Committee Final Report on guidelines for complaints-handling for the securities \(ESMA\) and banking \(EBA\) sectors, JC 2014 43, 13 June 2014](#)

⁵ [Final report on the application of the existing Joint Committee Guidelines on complaints-handling to authorities competent for supervising the new institutions under PSD2 and/or the MCD, JC 2018 35, 31 July 2018](#)

⁶ [Joint Committee Report on the assessment of the application of the Guidelines on complaints-handling, JC 2021 24, 18 February 2021](#)

- iii. national CAs that have to supervise only one set of Guidelines in their respective jurisdiction.
10. Applying the JC Guidelines on complaints handling to credit servicers will avoid divergent transpositions across Member States and contribute to a consistent approach to complaints handling with the same compliance impact for all credit servicers, no matter where they are registered. It will also enhance the protection of consumers irrespective of the provider with whom they conclude the credit agreement, by imposing on credit servicers the same requirements that already successfully apply to nearly all other financial institutions across the three sectors.
11. While the 2020 Review of the EBA Regulation ensured that the definition of ‘financial institutions’ in the EBA Regulation ‘dynamically’ expands with new sectoral legislation to capture all new supervised entities that are defined in that legislation without the need to individually enumerate those legal texts, the current definition of ‘Competent Authorities’ is static and needs to be updated with each new sectoral act added to the EBA’s scope of action. However, the European Commission has recently put forward a legislative proposal for a new Payments services Regulation (PSR)⁷. This clarifies that, with any EU law that is added to the scope of action of the EBA (such as the PSR or the CSD), the national authorities designated as competent to supervise said law are also added to the EBA’s scope of action. Such a dynamic reference provides legal certainty that EBA can issue its legal instruments on an own initiative to competent authorities under the CSD. Because the amendments included in the Commission Proposal for a PSR are expected to enter into force only in 2025, the EBA has decided to publish the consultation paper already now, to allow stakeholders to anticipate and prepare in good time for the implementation of the requirements. Following the assessment of the consultation responses, the EBA will await the entry into force of the PSR and its amendments to the EBA Regulation before it issues the Final Guidelines.
12. The draft Guidelines proposed in this CP re-produce, in the Annex and in verbatim wording, the aforementioned JC Guidelines which include the necessary changes to cover credit servicers. The JC Guidelines cover not only the substantive requirements (consisting of the complaints management policy, complaints management function, registration, reporting, internal follow-up, provision of information, and procedures for responding to complaints) but also chapters on the subject matter, scope, addressees, and definitions of the Guidelines. Paragraphs 3, 4(a), 8 and 9 of these chapters contain wording that explains how the authorities competent to supervise the new legal entities defined in the Mortgage Credit Directive and the revised Payment Services Directive (PSD2) are subject to the JC Guidelines. This wording was introduced last time the JC Guidelines were extended, in 2018, but became out-of-date when the EBA Regulation was subsequently amended in 2020, which added the NCAs under the MCD to the

⁷ [Proposal for a Regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation \(EU\) No 1093/2010, COM/2023/367 final, 28 June 2023.](#)

EBA's scope of action. Consequential changes to the JC Guidelines would be warranted that do not change the substance of the Guidelines but reflect the amendments in the EBA Regulation and simplify the aforementioned explanations. However, the EBA has decided not to include them in the Consultation Paper on hand and to refer instead to the current version of the JC Guidelines as such changes impact neither the NCAs nor the legal entities defined under the CSD. The EBA will make these changes in the final Guidelines post consultation.

13. Finally, akin to all other Guidelines that the EBA has issued in the past, other references in the Directive to complaints handling remain applicable, including the provision in Article 24(2) of the CSD which provides that "Member States shall ensure that the treatment by credit servicers of complaints from borrowers is free of charge and that credit servicers record the complaints and the measures taken to address them."

Consultation question:

Do you consider there to be a reason why the requirements on complaints handling for credit servicers under Directive (EU) 2021/2167 that are being proposed in this CP should differ from the ones in the existing JC Guidelines on complaints handling that are applicable to other financial institutions across the banking, Investment and insurance sectors?

4. Draft Guidelines

DD Month YYYY

Draft Guidelines

on complaints handling of credit
servicers under Directive (EU) 2021/2167

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains Guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010⁸. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, CAs and financial institutions must make every effort to comply with the Guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. CAs as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom Guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where Guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, CAs must notify the EBA as to whether they comply or intend to comply with these Guidelines, or otherwise with reasons for non-compliance, by [dd.mm.yyyy]. In the absence of any notification by this deadline, CAs will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/202x/xx'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their CAs. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

⁸ 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, (OJ L 331, 15.12.2010, p.12).

2. Subject matter, scope and addressees

Subject matter and scope

These Guidelines specify further the requirement in relation to credit servicers to establish and maintain effective and transparent procedures for the handling of complaints from borrowers in accordance with Article 24(1) of Directive (EU) 2021/2167⁹.

Addressees

These Guidelines are addressed to competent authorities as defined in [Article 4(2) of Regulation (EU) No 1093/2010]¹⁰ which are also competent authorities as referred to in Article 21 of Directive 2021/2167.

3. Implementation

Date of application

5. These Guidelines apply from dd.mm.yyyy [Instruction to editors – Please insert date [X] months after the date of publication on the EBA’s website of the Guidelines in all EU official languages (date of issuance of the Guidelines)].

⁹ Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU, (OJ, L 438, 8.12.2021, p. 1)

¹⁰ This Consultation Paper is drafted on the assumption that Regulation (EU) No 1093/2010 will be revised in the near future to include competent authorities as referred to in Article 21 of Directive 2021/2167 and will not be finalised until necessary amendments have not been made.

4. Guidelines

Competent authorities should apply the Joint Committee guidelines on complaints-handling for the securities and banking sectors of 13 June 2014¹¹ to credit servicers under Directive 2021/2167.

¹¹ [Joint Committee Final Report on guidelines for complaints-handling for the securities \(ESMA\) and banking \(EBA\) sectors, JC 2014 43 13 June 2014](#)

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

Introduction

As per Article 16(2) of Regulation (EU) No 1093/2010 (EBA Regulation), any guidelines and recommendations developed by the EBA shall be accompanied by an Impact Assessment (IA), which analyses ‘the potential related costs and benefits’. This analysis presents the IA of the main policy options included in this Consultation Paper on the *draft Guidelines on complaints-handling for credit servicers supervised under Directive (EU) 2021/2167* (‘the draft Guidelines’). The IA is high level and qualitative in nature.

Problem identification and background

Directive (EU) 2021/2167 of the European Parliament and of the Council on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU (either the ‘Credit Servicers Directive’ or ‘the Directive’) was published on 8 December 2021 and EU Member States are required to adopt and publish the national measures to transpose the provisions of the Directive by 29 December 2023.

This Directive aims at enabling credit institutions to better deal with loans that become non-performing by improving conditions for the sale of the credit to third parties and thus at harmonizing the related market practices. In this sale’s context, when credit institutions face a large build-up of NPLs and lack the staff or expertise to properly service them, they should be able either to outsource the servicing of those loans to a specialised credit servicer (‘the credit servicer’) or to transfer the credit agreement to a credit purchaser. In this situation, credit servicers and purchasers can become a key component of the sale of NPLs - and the implied development of an harmonized NPLs’ secondary market in the Union - and thus an harmonization of credit servicers and purchasers sectors’ practices is necessary. This Directive aims at therefore establishing a Union-wide framework for both purchasers and servicers of non-performing credit agreements issued by credit institutions. On the credit servicers side, and since the performance of NPLs’ secondary markets will depend to a large extent on the good reputation of the entities involved, the Directive states amongst other requirements that credit servicers should establish an efficient mechanism by which to treat complaints from borrowers. Indeed, its Article 24 (1) states that *‘Member States shall ensure that credit servicers establish and maintain effective and transparent procedures for the handling of complaints from borrowers’*.

Policy objective

Following the above-mentioned elements, the draft Guidelines objectives is to give guidance on the establishment and maintenance, by credit servicers, of effective and transparent procedures for the handling of complaints from borrowers.

The EBA, together with the ESMA, already published in 2014 – and updated them in 2018 - Joint Committee guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors ('The JC Guidelines' or 'Joint Committee Guidelines')). Nevertheless, the credit servicers are not covered by these JC Guidelines.

Options considered, assessment of the options and preferred options

This section presents the main policy options discussed and the decisions made by the EBA during the development of the draft Guidelines. Advantages and disadvantages, as well as potential costs and benefits from the qualitative perspective of the policy options and the preferred options resulting from this analysis, are provided.

Application of the Joint Committee Guidelines

The draft Guidelines objectives is to give guidance on the establishment and maintenance, by credit servicers, of effective and transparent procedures for the handling of complaints from borrowers. As mentioned before, the EBA, together with the ESMA, already published in 2014 – and updated them in 2018 – the Joint Committee guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors; and these JC Guidelines do not cover credit servicers. Nevertheless, the EBA considered how best leverage on the JC Guidelines in order to meet the objectives. In this context, two options have been considered by the EBA in this regard:

Option 1a: Issuing completely new Guidelines (the 'draft Guidelines') on complaints-handling of credit servicers.

Option 1b: Issuing new Guidelines (the 'draft Guidelines'), proposing to apply the JC Guidelines to credit servicers.

Issuing completely new draft Guidelines on complaints-handling of credit servicers could have the benefit to bring tailored requirements related to credit servicers specificities. Nevertheless, this tailoring would lead to distortion of requirements between those draft Guidelines and the existing JC Guidelines that is uniformly applicable for many years to financial institutions across the banking, investment and insurance sectors. Moreover, for the Competent Authorities – supervising for most of them both credit servicers and firms –, this distortion would create additional costs as a specific complaints-handling supervision processes should be developed for credit servicers.

Applying the JC Guidelines to credit servicers, by setting through the draft Guidelines the same requirements related to the credit servicers than the ones related to the firms mentioned in the JC Guidelines, would have the benefit of having more certainty on the relevance and efficiency of these requirements. Indeed, in 2021, the Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA - ESAs) published a Report on the application of the JC Guidelines¹² and this report concluded that the JC Guidelines have contributed to a consistent approach to complaints-handling across the banking, insurance and securities sectors and have resulted in better outcomes for consumers. Finally, most importantly, applying the existing JC guidelines would harmonize the whole complaints-handling framework for the entire financial sector.

On these grounds, **the Option 1b has been chosen as the preferred option** and EBA will issue new Guidelines (the 'draft Guidelines'), proposing to apply the existing JC Guidelines on complaints handling requirements to credit servicers. It has to be said that the costs, triggered by the draft Guidelines, for credit servicers (mainly costs of implementation of processes) and for Competent Authorities (mainly costs of supervision of credit servicers complaints-handlings' processes) are not deemed to be material as the main costs are largely absorbed by the cost associated with the compliance with the Directive (EU) 2021/2167.

Conclusion

The development of draft Guidelines on complaints-handling for credit servicers supervised under Directive (EU) 2021/2167 was deemed necessary to give guidance on the establishment and maintenance, by credit servicers, of effective and transparent procedures for the handling of complaints from borrowers. The benefits will be for both credit servicers and their Competent Authorities to have a common framework for complaints-handling and thus an harmonization of credit servicers' sectors practices in the Union. The costs associated with these draft Guidelines are not deemed to be material as the main costs are largely absorbed by the cost associated with the compliance with the Directive (EU) 2021/2167. As such costs will be exceeded by the aforementioned benefits. These draft Guidelines hence should achieve, with acceptable costs, their objectives.

5.2 Overview of the question(s) for consultation

Consultation question: Is there a reason why the requirements on complaints handling for credit servicers under Directive (EU) 2021/2167 should differ from the ones in the existing JC Guidelines on complaints handling that are applicable to other financial institutions across the banking, Investment and insurance sectors?

¹² [JC 2021 24 Report on complaints-handling.pdf \(europa.eu\)](#)

Annex

Proposed consolidated Joint Committee guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors

Purpose

1. In order to ensure the adequate protection of consumers, these guidelines seek to:
 - a. clarify expectations relating to firms' organisation relating to complaints-handling;
 - b. provide guidance on the provision of information to complainants;
 - c. provide guidance on procedures for responding to complaints;
 - d. harmonise the arrangements of firms for the handling of all complaints they receive; and
 - e. ensure that firms' arrangements for complaints-handling are subject to a minimum level of supervisory convergence across the EU.

Scope

2. These 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.
3. With regard to non-credit institution creditors and credit intermediaries, the guidelines apply to the extent that those authorities have been designated as competent for ensuring the application and enforcement of the provisions of the Mortgage Credit Directive to which these guidelines relate.
4. These guidelines do not apply where a firm receives a complaint about:
 - a. activities other than those supervised by 'competent authorities' pursuant to Article 4(3) of the ESMA Regulation, or Article 4(2) of the EBA Regulation, or Article 5 of the Mortgage Credit Directive; or
 - b. 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.

Compliance, reporting obligations and date of application

5. These guidelines are issued pursuant to Article 16 of the ESA Regulations¹. In accordance with Article 16(3), competent authorities and financial institutions must make every effort to comply with the guidelines.
6. These guidelines set out ESMA's and the EBA's view of appropriate supervisory practices within the European System of Financial Supervision and of how Union law should be applied. ESMA and the EBA therefore expect all competent authorities and financial institutions to which these guidelines are addressed to comply with guidelines. Competent authorities to which these guidelines apply should comply by incorporating them into their supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.
7. Competent authorities must notify ESMA and/or the EBA whether they comply or intend to comply with the guidelines, stating their reasons for non-compliance, within two months of the date of publication of the translated versions by ESMA and the EBA to JCguidelines.complaintshandling@esma.europa.eu and compliance@eba.europa.eu. In the absence of a response by this deadline, competent authorities will be considered non-compliant. A template for notifications is available on the ESMA and EBA websites.
8. These guidelines apply from the date of the reporting requirement referred to in paragraph 7. With regard to authorities competent for supervising complaints-handling by credit intermediaries and non-credit institution creditors under the Mortgage Credit Directive and payment institutions that provide only payment initiation or account information services under the Payment Services Directive, the guidelines apply from 1 May 2019.
9. Irrespective of whether or not an authority pursuant to Article 4(2) of the EBA Regulation is addressed under paragraphs 2 and 3, where a Member State has designated more than one authority in accordance with Article 5 of Directive 2014/17/EU and one of them is not an authority pursuant to Article 4(2) of the EBA Regulation, the authority pursuant to Article 4(2) of the EBA Regulation designated under Article 5 of Directive 2014/17/EU should, without prejudice to national arrangements adopted under Article 5(3) of Directive 2014/17/EU:
 - a) inform without delay the other designated authority of these guidelines and their date of application;
 - b) ask that authority in writing to consider applying the guidelines;
 - c) ask that authority in writing to inform either the EBA or the authority pursuant to Article 4(2) of the EBA Regulation within two months of the notification under subparagraph (a) whether it applies or intends to apply these guidelines; and

- d) where applicable, forward without delay to the EBA the information received under subparagraph (c).

Definitions

10. Unless otherwise specified, terms used in the following sectoral legislation have the same meaning in these guidelines:
- a. the Markets in Financial Instruments Directive (MiFID);
 - b. the Alternative Investment Fund Manager Directive (AIFMD);
 - c. the Undertakings for collective investment in transferable securities (UCITS Directive);
 - d. the Capital Requirements Directive (CRD) and Capital Requirements Regulation (CRR);
 - e. the Payment Services Directive (PSD);
 - f. the E-Money Directive (EMD); and
 - g. the Mortgage Credit Directive (MCD);
 - h. the Credit Servicers Directive (CSD), at times also referred to as the 'NPL Directive' or 'Loan Servicers Directive'.
11. For the purposes of these guidelines only, the indicative definitions set out in the table below, which do not override equivalent definitions in national law, have been developed.

<i>firm(s)</i> ²	<p>The following financial market participants if they are carrying out (i) investment services listed in Section A of Annex I of MiFID and ancillary services listed in Section B thereof, or (ii) a banking service listed in Annex I to CRD, or (iii) the service of collective portfolio management of UCITS, or (iv) a payment service as defined in Article 4(3) of the PSD, or (v) issuing electronic money as defined in Article 2(2) of the EMD, or (vi) provision of credit agreement as defined in Article 4(3) of the MCD or credit intermediation activities as defined in Article 4(5) of the MCD or (viii) credit servicing activities as defined in Article 3(9) of CSD:</p> <ul style="list-style-type: none"> • investment firms (as defined in Article 4(1)(1) of the MiFID); • management companies (as defined in Article 2(1)(b) of the UCITS Directive) and investment companies that have not designated a management company (as referred to in Article 30 of the UCITS Directive); • external AIFMs (as defined in Article 5(1)(a) of the AIFMD) when providing services pursuant to Article 6(4) of the AIFMD; • credit institutions (as defined in Article 4(1) of the CRR); payment institutions (as defined in Article 4(4) of the PSD), including, in accordance with Article 33 of the PSD, exempted account
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	<p>information service providers providing only the payment service as referred to in point (8) of Annex I of the PSD;</p> <ul style="list-style-type: none"> • electronic money institutions (as defined in Article 2(1) of the EMD); and • credit intermediaries and non-credit institution creditors (as defined in Article 4(5) and (10) of the MCD respectively), • credit servicers (as defined in Article 3 (8) of the CSD)
<i>Complaint</i>	<p>A statement of dissatisfaction addressed to a firm by a natural or legal person relating to the provision of (i) an investment service provided under MiFID, the UCITS Directive or the AIFMD; or (ii) a banking service listed in Annex I to the CRD; or (iii) a service of collective portfolio management under the UCITS Directive; or (iv) a payment service as defined in Article 4(3) of the PSD, or (v) issuing electronic money as defined in Article 2(2) of the EMD; or (vi) credit agreement as defined in Article 4(3) of the MCD; or (vii) credit intermediation activities as defined in Article 4(5) of the MCD or (viii) credit servicing activities as defined in Article 3(9) of CSD.</p>
<i>Complainant</i>	<p>A natural or legal person who is presumed to be eligible to have a complaint considered by a firm and who has already lodged a complaint.</p>

Guidelines on complaints-handling

<p>Guideline 1 – Complaints management policy</p> <p>1. Competent authorities should ensure that:</p> <ol style="list-style-type: none"> a) A ‘complaints management policy’ is put in place by firms. This policy should be defined and endorsed by the firm’s senior management, who should also be responsible for its implementation and for monitoring compliance with it. b) This ‘complaints management policy’ is set out in a (written) document (e.g. as part of a ‘general (fair) treatment policy’). c) The ‘complaints management policy’ is made available to all relevant staff of the firm through an adequate internal channel.
<p>Guideline 2 – Complaints management function</p> <p>2. Competent authorities should ensure that firms have a complaints management function which enables complaints to be investigated fairly and possible conflicts of interest to be identified and mitigated.</p>

Guideline 3 – Registration

3. Competent authorities should ensure that firms register, internally, complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register).

Guideline 4 – Reporting

4. Competent authorities should ensure that firms provide information on complaints and complaints-handling to the competent authorities or ombudsman. This data should cover the number of complaints received, differentiated according to their national criteria or own criteria, where relevant.

Guideline 5 – Internal follow-up of complaints-handling

5. Competent authorities should ensure that firms analyse, on an on-going basis, complaints-handling data, to ensure that they identify and address any recurring or systemic problems, and potential legal and operational risks, for example, by:
 - 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.

Guideline 6 – Provision of information

6. Competent authorities should ensure that firms:
- 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 firm's website.
 - c) Provide clear, accurate and up-to-date information about the complaints-handling process, which includes:
 - (i) details of how to complain (e.g. the type of information to be provided by the complainant, the identity and contact details of the person or department to whom the complaint should be directed);
 - (ii) the process that will be followed when handling a complaint (e.g. when the complaint will be acknowledged, indicative handling timelines, the availability of a competent authority, an ombudsman or alternative dispute resolution (ADR) mechanism, etc.).
 - b) Keep the complainant informed about further handling of the complaint.

Guideline 7 – Procedures for responding to complaints

7. Competent authorities should ensure that firms:
- a) Seek to gather and investigate all relevant evidence and information regarding the complaint.
 - b) Communicate in plain language, which is clearly understood.
 - c) Provide a response without any unnecessary delay or at least within the time limits set at national level. When an answer cannot be provided within the expected time limits, the firm should inform the complainant about the causes of the delay and indicate when the firm's investigation is likely to be completed.
 - d) When providing a final decision that does not fully satisfy the complainant's demand (or any final decision, where national rules require it), include a thorough explanation of the firm's position on the complaint and set out the complainant's option to maintain the complaint e.g. the availability of an ombudsman, ADR mechanism, national competent authorities, etc. Such decision should be provided in writing where national rules require it.