



FINANTSINSPEKTSIOON

Financial Supervision Authority advisory guidelines

Tallinn

23 November 2011

Requirements for handling of customer complaints

The advisory guidelines were established by Financial Supervision Authority management board resolution no. of 23 November 2011 1.1-7/39.

1. Legal authority

- 1.1. In accordance with the Section 3 of the Financial Supervision Authority Act (hereinafter FSAA) the Financial Supervision Authority performs financial supervision in order to enhance the stability, reliability, transparency and efficiency of the financial sector, to reduce systemic risks and to promote prevention of the abuse of the financial sector for criminal purposes, with a view to protecting the interests of clients and investors by safeguarding their financial resources, and thereby supporting the stability of the Estonian monetary system.
- 1.2. Under subsection 57 (1) of the FSAA, the Supervision Authority has the right to issue advisory guidelines to explain legislation regulating the activities of the financial sector and to provide guidance to subjects of financial supervision.

2. Scope of application and objective

- 2.1. Legal acts that govern the activities of subjects of financial supervision deal with, among other things, the processing of complaints submitted by clients of financial services (such as Section 82⁷ of the Securities Market Act (SMA), subsection 89 (6) of the Credit Institutions Act (CrIA). Among other things, subsection 63 (1) of the CrIA, subsection 82 (1) of the SMA, subsection 84 (1) of the Insurance Activities Act, subsection 57 (1) of the Investment Funds Act and the subsection 50 (1) of the Paying Authorities and E-Money Institutions Act govern in general the obligation of supervision subjects to establish internal provisions and procedural rules to ensure that the activities of the service provider conform to legal acts and are in compliance with the decisions of management bodies.
- 2.2. The objective of these guidelines is to elucidate the requirements that arise for supervision subjects from legal acts and to provide guidance for subjects to handle complaints in a transparent, effective and systematic manner. The information obtained from the processing of complaints can be used to improve and supplement services, products and internal provisions at the supervision subject, reduce risks and to increase the service quality, which will ultimately result in benefits for both the supervision subject as well as its customers.

3. Definitions

- 3.1. Supervision subject for the purposes of these guidelines is a person who can be considered to be a subject of financial supervision on the basis of subsection 2 (1) of the FSAA.
- 3.2. A complaint for the purposes of these guidelines shall generally be any oral or written expression of dissatisfaction by a customer with regard to the terms and conditions of a supervision subject's product or service or the action or obligation of a supervision subject. The supervision subject, shall in light of the scope and particularities of its operating activity, define in its internal provisions situations that shall be considered complaints in the sense of this clause.
- 3.3. Customer for the purpose of these guidelines shall be any natural or legal person who uses, has used or has expressed the desire to use the supervision subject's services.

4. Area of application

- 4.1. The guidelines shall apply to all supervision subjects, including branches of foreign supervision subjects in Estonia.
- 4.2. In complying with the requirements of the guidelines and developing and implementing relevant solutions, the supervision subject shall take into account the nature, extent, complexity and organizational structure of its operating activity.
- 4.3. Requirements arising from legal acts must be taken into account in applying these guidelines. In the case of imperative requirements arising from legal acts, the provisions of legal acts must be followed.
- 4.4. In certain cases, with regard to certain services or products, the guidelines may be considered applied by way of implementation of other generally accepted dispute settlements (e.g. certain credit card companies etc) where the means of resolving the disputes is prescribed or the customer is given some other way of lodging complaints and the complaints are processed similarly to the principles set forth in these guidelines.
- 4.5. In the case of problems with implementation and interpretation arising upon application of the guidelines, the principle of reasonableness must be adhered to, taking into consideration the purpose of these guidelines, whereas the care expected from a subject of financial supervision acting in good faith must be exercised.

5. General organizational requirements for handling complaints

- 5.1. The supervision subject shall ensure that solutions used within the organization are sufficient and proportional and confirm to the scope and complexity of services to be provided by supervision subjects and the need to manage risks.
- 5.2. If the size of the supervision subject does not allow the organizational requirements dealt with in these guidelines to be complied with in full¹, then the supervision subject shall at minimum comply with the provisions of the guidelines that pertain directly to communication with the customer who lodged the complaint.

¹ For instance, in smaller supervision subjects where the responsible managers and employees connected with the service are the same person, or in other similar situations, it will not necessarily be possible or rational to implement multi-level reporting, review and procedural measures etc. In such conditions the guidelines should be applied taking into account the principle whereby the supervision subject should if necessary be prepared to explain why it is not applying a given clause of the guidelines or does so only in part.

- 5.3. With its internal provisions, the supervision subject shall establish a functioning and transparent procedure for effective and systematic resolution of complaints received from customers (e.g. reasonable and rapid resolution in the sense of Section 82⁷ of the SMA) and shall also register and retain complaints and data on measures implemented for complaint resolution.
- 5.4. The supervision subject shall regularly evaluate the efficacy of the internal provisions established for processing complaints, if necessary shall update them and conduct internal audits regarding their compliance.
- 5.5. If the size of the organization so allows, the supervision subject shall adopt internal measures to ensure that the person conducting proceedings on the complaints is as independent as possible of the employees related to provision of the service that constitutes the object of the complaint, which would allow the complaint be resolved as objectively as possible.

6. Persons responsible for handling complaints

- 6.1. The supervision subject shall ensure that its organizational structure is transparent and has clearly defined areas of responsibility – the supervision subject shall ensure that employees or other representatives responsible for handling complaints (hereinafter employees) are designated within the company.
- 6.2. The duties of the employee(s) responsible for handling complaints and of all other employees connected with handling of complaints shall be clearly defined in the internal provisions and/or other documents.
- 6.3. The supervision subject shall ensure that both the responsible employee(s) and all other employees connected with handling of complaints have sufficient knowledge for handling complaints competently, prudently and timely and that employees are briefed on requirements of the internal provisions established for handling complaints.
- 6.4. The employee(s) responsible for processing complaints shall pursuant to their job duties i) perform registration and documentation of complaints and/or ii) respond to complaints in a timely manner and/or iii) collect and analyze statistics on complaints and/or iv) be responsible for reporting.
- 6.5. The supervision subject shall ensure that customers, at their request, are provided with a reasonable amount of assistance in filing their complaint, consisting of general guidelines provided by the supervision subject with regard to the structure of the complaint.

7. Notification of customers

- 7.1. It is recommended that the supervision subject disclose information on the procedures for resolution of complaints in a form reproducible in writing (e.g. website, general terms and conditions, contract terms and conditions, information bulletin or information folders in the office). The minimum requirement is that the supervision subject must, at least upon a corresponding request from a customer, disclose information on the procedures for resolution of complaints in a form reproducible in writing.
- 7.2. The complaint resolution procedures to be disclosed and submitted to customers contain information on the form of and communications channels for lodging complaints, the type of information to be included in complaints, the term for responding to complaints and the form of and communication channel used for the response. The procedure also lists

information on the person or body conducting pre-judicial proceedings and the supervision authorities to which a customer may file a complaint regarding activities of a supervision subject.

- 7.3. Upon the lodging of a complaint, the customer shall be immediately notified either in writing, orally or via another communications channel agreed upon with the customer that the complaint has been accepted and of the term for processing, or, if applicable, that the complaint has not been accepted for processing, and the reasons for the denial.
- 7.4. In general, written complaints from customers shall be given a written response, unless an oral response is made to a written complaint from the customer and there is reason to believe that the customer does not express consent to receive a written response. A response to a complaint may also be provided using some other form via a communication channel agreed upon with the customer.
- 7.5. If it is not possible to resolve the complaint within the appointed term, the customer shall be notified in a form reproducible by writing of the reasons for the extended proceedings and the additional term for a response.
- 7.6. If, as the final result of the processing of the complaint, the supervision subject and the customer did not reach agreement, or a compromise is not reached with the customer, the supervision subject shall, if relevant in light of the content of the dispute, notify the customer in a reproducible form in writing of the possibilities for extrajudicial resolution or other method of appeal, adding the contact details for the body that would conduct the said proceedings.

8. Terms for processing complaints

- 8.1. The terms for processing complaints must be optimally short. The supervision subject shall review the complaint and notify a customer who is an individual within 15 days of possible resolution of the complaint. Customers who are legal persons shall receive the corresponding notification within 30 days of receiving the complaint.
- 8.2. If it is not possible to resolve the complaint within the term specified in clause 8.1 due to the complexity of the complaint or due to other good reasons, the supervision subject shall notify the customer in a reproducible form in writing of the reasons for the extended proceedings and the additional term for a response.

9. Registration and documentation of complaints

- 9.1. The supervision subject shall ensure registration and documentation of complaints in a manner that guarantees, within the supervision subject's organization, that the complaint can be accessed, the proceedings can be tracked, and statistics regarding the complaint can be analyzed.
- 9.2. In setting a term for retention of documentation related to the complaint, the supervision subject shall take into consideration the nature of the complaint and the needs of the supervision subject and the customer with regard to availability of the documentation.

10. Reporting complaints

- 10.1. The supervision subject shall govern, in internal provisions and/or other documents, the reporting obligation of the employee(s) responsible for handling complaints, taking into account the nature, extent, complexity and organizational structure of the company's operating activity.

- 10.2. The reporting obligation shall cover statistics on complaints or the obligation of reporting analyses compiled on the basis thereof to the employee(s) responsible for the product or service and in charge of improving and supplementing the product or service, assessment of risks related connected with the product or service or ensuring the conformity of the internal provisions to the legislation and legal acts issued on the basis thereof governing the activity of the supervision subject.
- 10.3. Statistics on complaints or the analysis compiled on the basis thereof shall be submitted by the responsible employee(s) at least once a year to the management board of the supervision subject, taking into account the nature, extent, complexity and organizational structure of the company's operating activity.

11. Internal follow-up activities at the supervision subject arising from complaints

- 11.1. In its internal provisions, the supervision subject shall set forth the internal follow-up activities to be undertaken in the company in connection with complaints. The primary objective of follow-up activity is, proceeding from the complaints, to systematically assess risks in the activity of the supervision subject and to perform conformity review related thereto.
- 11.2. Follow-up activity shall involve gathering of statistics on customer complaints and analyzing it periodically in order to identify possible problem areas and legal risks with regard to the products, services and customer service of the supervision subject as well as shortcomings in internal provisions and awareness of managers and employees thereof.
- 11.3. Follow-up activity encompasses the reporting obligation pursuant to clause 10 of the Guidelines.
- 11.4. The outcome of follow-up activity may be amendment of internal provisions, changes to products, services or customer service, carrying out additional internal trainings etc and other measures adopted by the supervision subject to eliminate the shortcomings.

12. Final provisions

The Guidelines shall enter into force on 1 June 2012.

