EBA/GL/2024/12

24 July 2024

Final Report

on EBA Guidelines amending Joint Committee Guidelines on complaints handling for the securities (ESMA) and banking (EBA) sectors

Contents

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.

Executive Summary

Directive (EU) 2021/2167 on credit servicers and credit purchasers (Credit Servicers Directive – CSD, at times also referred to as the 'Non-Performing loan Directive' (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 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 proposed in a public consultation to amend the existing Joint Committee Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors (JC Guidelines) to extend them to credit servicers under Directive 2021/2167. The JC Guidelines have been developed by the three European Supervisory Authorities (ESAs) and apply across the banking, investment and insurance sectors since 2014.

A public consultation on a draft version of the EBA Guidelines was carried out from 9 November 2023 to 9 February 2024. A total of 11 responses were submitted to the EBA. Following the assessment of the responses, the EBA Guidelines do not introduce any additional requirements.

The Guidelines amend the JC Guidelines to 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, keeping the content 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.

Some non-substantive changes have also been introduced to keep the complaints handling requirements up to date, in light of the amendments made to the EBA regulation in 2020 and the repeal of the 2018 EBA Guidelines which was extending the JC Guidelines to new institutions under the Payment Service Directive (PSD2) and/or the Mortgage Credit Directive (MCD).

Next steps

The Guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they comply with the Guidelines will be [*Instruction to editors: two months after the publication of the translations*].

The Guidelines will apply from [*dd/mm/yyyy*] [*instruction to editors: 3 months after the entry into force of the proposed Payment Services Regulation (PSR), which is expected sometime in 2025, at which point the precise date will be inserted here]*.

1. Background and rationale

1.1 Background

1. Directive (EU) 2021/2167 on credit servicers and credit purchasers (Credit Servicers Directive – CSD, at times also referred to as the Non-Performing loan Directive' (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 Guidelines are addressed to competent authorities (CAs) under the CSD.

4. The Guidelines extend the application of the existing Joint Committee Guidelines on complaints handling for the securities (ESMA) and banking sectors (EBA) (JC Guidelines) to credit servicers under the CSD. The JC Guidelines have been developed by the European Supervisory Authorities (ESAs) 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 to make every effort to comply with these Guidelines.

6. In fulfilment of the aforementioned mandate and related provisions and recitals, the EBA published on 9 November 2023 a Consultation Paper (CP), which set out the EBA's proposals for the Guidelines. The CP laid out the proposed content of complaints handling requirements by credit servicers. Those requirements include complaints management policy, complaints management function, registration, reporting, internal follow-up, provision of information and procedures for responding to complaints. A public hearing was held on 11 January 2024 before the end of the consultation period on 9 February 2024, by which time the EBA had received 11 responses which were assessed in detail, as presented in the feedback table in section 4.2 of this Final Report.

1.2 Rationale

7. 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 Joint Committee Guidelines for complaints-handling for the securities and banking sectors[4] (JC Guidelines). Several years later, in 2018, the EBA extended the legal entity scope of the Guidelines[5], 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.

8. Furthermore, in 2021, the JC published a Report on the application of the JC Guidelines on complaints-handling[6], which concluded that the JC 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, remain fit for purpose so do not require any revision.

9. In order to ensure that complaints handling requirements applicable to credit servicers will have the same positive effect that the existing JC Guidelines have had on the three sectors, and that they will be implemented consistently across the 27 EU Member States (MS), the Guidelines extend the application of the JC Guidelines to credit servicers under the CSD. The Guidelines are addressed to CAs and set out how financial institutions should give effect to the provisions in Article 24 of the Directive. They thus contribute to the EBA's objective of improving the functioning of the internal market and enhancing customer and consumer protection.

10. Extending the JC Guidelines to credit servicers aims to avoid divergent transpositions of Article 24 across Member States. It will also enhance the protection of consumers by imposing on credit servicers the same requirements that already successfully apply to other financial institutions across the three sectors.

11. In response to the public consultation most of the respondents expressed support for the EBA's proposed approach and welcomed the initiative to extend the applicability of the JC Guidelines to credit servicers under the CSD. Most respondents, including some credit servicers, indicated that such extension would benefit the industry, the national competent authorities (NCAs) and consumers alike.

12. A few respondents expressed concerns regarding the definitions of 'firms' and 'complaints' in the JC Guidelines.

[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

13. One respondent commented that the extension of the JC Guidelines is limited to credit servicers under the CSD only and does not also include other, non-NPL servicers, thus omitting to enhance the protection of consumers of such other providers. The EBA assessed the comment and arrived at the view that, as the Guidelines can only be in support of provisions of a particular EU Directive, and that the scope of the entities to which the complaints-handling requirements in Article 24(1) CSD is limited to is credit servicers under the CSD, the scope of the Guidelines have to be limited to those entities, too.

14. In addition, some respondents representing credit servicers stressed that the definition of the 'complaints' in the JC Guidelines is too broad and would need to be amended to acknowledge the specificities of the credit servicing industry (e.g. not enough similarities with the banking, investment or insurance industry regarding the services provided or the contractual relationship with consumers or risks that any general statement of dissatisfaction of a consumer qualifies as a complaint). The EBA assessed these concerns but arrived at the view that no change is required.

15. The EBA however introduced few non-substantive amendments to the Guidelines which impact neither the NCAs nor the legal entities defined under the CSD, as they represent consequential changes linked to the amendments made in 2020 to the EBA regulation and the repeal of the EBA Guidelines of 2018. Further details are presented in the sections below together with explanations about the approach which will be followed regarding the application date of the Guidelines.

1.2.1 Non-substantive amendments to the Guidelines

16. 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.

17. Those sections contained sentences that were necessary at the time when the JC Guidelines were last extended in 2018 to apply also to the new institutions under PSD2 and MCD. The sentences explained how the NCAs under the MCD that are not within the scope of action of the EBA are addressed by the JC Guidelines. However, with the revision of the EBA Founding Regulation in 2020, which added these NCAs to the EBA's scope of action, these sentences have become out of date and non-substantive changes are therefore warranted.

18. Additional non-substantive amendments have been made such as including in the Guidelines the extension to institutions under PSD 2 and/or the MCD as already set in the EBA Guidelines of 2018.

1.2.2 Application date of the Guidelines

19. As explained in the Consultation Paper, the NCAs designated as competent to supervise the CSD are not included in Article 4(2) of the EBA Regulation. The EBA can therefore currently not translate and issue these Guidelines, as it cannot yet address them to NCAs under the CSD. This situation is expected to change in the course of 2025, once the proposed EU Payment Services Regulation (PSR) enters into force and, inter alia, Article 4(2) of the EBA Regulation is amended accordingly.

20. As a result, the Guidelines do not yet set a fixed application date. Instead, the application date is relative, i.e. 3 months after the entry into force of the PSR and the amendments of the EBA Regulation. This is expected to be, sometime in 2025, and the precise application date will be added to the Guidelines at that point in time. Until then, credit servicers have extra time to prepare to be compliant with the Guidelines.

2. Guidelines

EBA/GL/2024/12

24 July 2024

Guidelines

amending Joint Committee Guidelines JC/GL/2014/43 for complaints-handling for the securities (ESMA) and banking (EBA) sectors

1. Compliance and reporting obligations

Status of these Guidelines

1. This document contains Guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010[7]. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities 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. Competent authorities 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, competent authorities 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]* *[Note to the editors: two months after publication of the translations into the EU official languages].* In the absence of any notification by this deadline, competent authorities 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/2024/12'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their Competent Authorities. 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).

[7] 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. Addressees

These Guidelines are addressed to Competent Authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 which are also Competent Authorities as referred to in Article 5 of Directive 2014/17/EU and Article 21 of Directive 2021/2167.[8]

3. Implementation

Date of application

These Guidelines apply from dd.mm. yyyy *[Instruction to editors – 3 months after the entry into force of the proposed Payment Services Regulation (PSR), which is expected sometime in 2025, at which point the precise date will be inserted here).*

Repeal

The following EBA Guidelines are repealed with effect from dd.mm. yyyy *[Instruction to editors the application date mentioned above]*

EBA Guidelines 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 of 31July 2018.

[8] 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 ELI: http://data.europa.eu/eli/dir/2021/2167/oj

4. Amendments

The Joint Committee Guidelines for complaints-handling JC/GL/2014/43 are amended as follows:

1. The following letters g) and h) are added to paragraph 8:

'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''.

2. In paragraph 9 the 'definition of firm(s)' is replaced with the following text:

'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 (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 (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:

- 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 and electronic money institutions (as defined in Article 4(4) of the PSD, and Article 2(1) of the EMD respectively).
- account information service providers as referred to in Article 33 (1) of PSD providing only the payment service as referred to in point (8) of Annex I of the PSD;
- credit intermediaries and non-credit institution creditors (as defined in Article 4(5) and (10) of the MCD respectively), and
- credit servicers (as defined in Article 3 (8) of the CSD).'

3. In paragraph 9 the following is added to the definition of 'complaint':

'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.'

3. Supporting documents

3.1 Cost-benefit analysis / impact assessment[9]

3.1.1 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 final report on the 'EBA Guidelines amending the Joint Committee Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors ('the amending Guidelines')'. The IA is high level and qualitative in nature.

3.1.2 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 harmonising 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 harmonised NPLs' secondary market in the Union – and thus an harmonisation 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*

[9] The amending Guidelines will also repeal the EBA Guidelines of 2018 on the application of the JC Guidelines to authorities competent for supervising the new institutions under PSD2 and/or the MCD and include the extension to institutions under PSD 2 and/or the MCD of the EBA Guidelines of 2018 into the JC Guidelines of 2014. Those amendments are not in the scope of the present Cost-benefit analysis / impact assessment as they update and re-introduce existing requirements which were already subject to a cost-benefit analysis / impact assessment and impact neither the NCAs nor the legal entities defined under the CSD. Furthermore, the Cost-benefit analysis / impact assessment which was carried out for the JC Guidelines on complaints-handling to authorities competent for supervising the new institutions under PSD2 and/or the MCD of 31 July 2018 remains applicable.

credit servicers establish and maintain effective and transparent procedures for the handling of complaints from borrowers'.

3.1.3 Policy objective

Following the above-mentioned elements, the amending 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.

3.1.4 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 amending 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 amending 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 on complaints-handling by credit servicers.

Option 1b: Issuing new Guidelines (the 'amending Guidelines'), amending the JC Guidelines to apply its existing requirements to credit servicers

Issuing completely new 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 new 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 amending 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 Guidelines[10] 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 harmonise 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 'amending Guidelines'), proposing to amend the JC Guidelines on complaints handling to apply its existing requirements to credit servicers. It has to be said that the costs, triggered by the amending 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.

3.1.5 Conclusion

The development of Guidelines amending the Joint Committee Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors 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 harmonisation of credit servicers' sectors practices in the Union. The costs associated with these amending 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 amending Guidelines hence should achieve, with acceptable costs, their objectives.

3.2 Views of the Banking Stakeholder Group

The EBA's Banking Stakeholder Group (BSG), too, submitted its views on the EBA's Consultation Paper. It welcomed the EBA's approach to issue new Guidelines which apply the JC Guidelines to credit servicers. The BSG considered that this approach would "provide advantages for all parties involved: first, for consumers (in this case, borrowers), as it is very important for them to have access to free, simple, and similar complaints-handling procedures and forms for all financial services and related activities. At the same time, it will not put an additional burden on the NCAs and it seems to be also desirable for firms."

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

The BSG also expressed its support to point 11 of the Rationale referring notably to the following "[…] 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."

According to the BSG this approach would allow stakeholders to have more time to prepare for the implementation of the requirements. The BSG also stated that "it is important for consumers to have access, as soon as possible, to more efficient procedures which could help them to be better protected from a potential abusive behavior of credit servicers."

3.3 Feedback on the public consultation and the BSG submission

3.3.1 Summary of key issues raised by respondents and EBA feedback

The EBA publicly consulted on the draft proposal contained in this paper. The consultation period lasted for 3 months and ended on 9 February 2024. 11 responses were received, of which 9 were published on the EBA website while 2 were submitted as confidential response and therefore not published on the EBA website.

In response to the public consultation almost all of respondents expressed support for the EBA's proposed approach, welcoming the initiative to extend the applicability of the JC complaints handling Guidelines to credit servicers under the CSD. The majority of respondents, including some credit servicers, indicated that such extension would benefit the industry, the National Competent Authorities and consumers alike. However, a few respondents expressed concerns regarding the definitions of 'firms' and 'complaints' in the JC Guidelines.

One respondent commented that the extension of the JC Guidelines is limited to credit servicers under the CSD only and does not also include other, non-NPL servicers, thus omitting to enhance the protection of consumers of such other providers. The EBA assessed the comment and arrived at the view that, as the Guidelines can only be in support of provisions of a particular EU Directive, and that the scope of the entities to which the complaints-handling requirements in Article 24(1) CSD is limited to is credit servicers under the CSD, the scope of the Guidelines have to be limited to those entities, too.

In addition, some respondents representing credit servicers stressed that the definition of the 'complaints' in the JC Guidelines is too broad and would need to be amended to acknowledge the specificities of the credit servicing industry (e.g. not enough similarities with the banking, investment or insurance industry regarding the services provided or the contractual relationship with consumers or risks that any general statement of dissatisfaction of a consumer qualifies as a complaint). The EBA assessed these concerns but arrived at the view that no change is required.

Further details on the EBA's assessment of the consultation responses are provided in the feedback table in section 3.3.3 below.

3.3.2 The EBA's response to the Banking Stakeholder Group's submission

As described in section 3.2, the BSG made a number of comments on the draft Guidelines which are addressed below.

With regard to the approach proposed by the EBA to issue new Guidelines which apply the JC Guidelines to credit servicers, the EBA acknowledged the support of the BSG, in particular on the fact that the EBA Guidelines would benefit the industry, the national competent authorities and consumers alike.

With regards to BSG's comments regarding the need for stakeholders to anticipate and prepare in good time for the implementation of the requirements, in particular in the interest of consumers, the EBA acknowledged the support of the BSG.

As stated in the consultation paper, because the amendments included in the European Commission Proposal for a PSR are expected to enter into force only in 2025, the EBA will wait with the translation of the Guidelines, and thus the start of the compliance notification period for NCAs, until the proposed Payment Services Regulation (PSR) will have entered into force (likely in early 2025), as this will amend the definition in the EBA regulation of 'competent authorities'.

As a result, the Guidelines do not yet set a fixed application date. Instead, the application date is relative, i.e. 3 months after the entry into force of the PSR and the amendments of the EBA Regulation. This is expected to be, sometime in 2025, and the precise application date will be added to the Guidelines at that point in time. Until then, credit servicers have extra time to prepare to be compliant with the Guidelines.

However, to allow the stakeholders to anticipate and prepare in good time for the implementation of the requirements and to support the transposition of the Guidelines by the Member States the EBA will publish already in 2024 the final report with the final Guidelines.

The EBA is of the view that this approach would prove beneficial for the transposition of the Article 24(1) of the CSD by the Member States, for the industry which will have sufficient time to prepare for the application of the Guidelines, but also for consumer who will be made aware that the JC Guidelines will be extended to credit servicers, already in 2024.

3.3.3 Summary of responses to the consultation and the EBA's analysis

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	Feedback on responses to the 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?			
1	The existing JC Guidelines requirements on complaints-handling should be extended to credit servicers	Almost all respondents supported the EBA's proposed approach to extend the applicability of the JC Guidelines to credit servicers under the CSD mentioning that it would benefit all stakeholders. Those respondents stressed in particular the following: - In line with the high-level consumer protection objective of the CSD stated in recital 52 of the CSD, the extension of the JC Guidelines will prove beneficial for consumers (borrowers). According to some respondents, borrowers will be indeed treated equally irrespective of the provider with whom they conclude the credit agreement or of whether the credit rights have been assigned or not. Borrowers whose loans would be transferred to credit management companies will benefit from the same complaints-handling procedures (e.g. access free, simple, and similar procedures and forms for all financial services and related activities). - The JC Guidelines are already broadly known, accepted and used as best practice on the NPL secondary market and correspond to the existing Group-wide internal rules on complaints-handling that some credit servicers apply for almost 10 years. - The extension of the JC Guidelines to credit servicers will not create any additional burden for NCAs;	The EBA acknowledges that many respondents supported the approach articulated in the consultation paper.	None

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
2	The scope of the applicability is not sufficient and should be extended to non-NPL servicers	One respondent indicated that while it supports the extension of the JC Guideline to credit servicers, it considers the scope of applicability of the Guidelines insufficient to achieve the goal of the ESAs to enhance the protection of consumers irrespective of the provider with whom they conclude the credit agreement. This respondent stressed that between the CSD draft proposal of the European Commission and the final CSD, the scope has been limited to NPL sales, carving out the servicing of non-NPL loans (such as non-NPL securitizations). According to this respondent, by extending the JC Guidelines to credit servicers only, the EBA would exclude non-NPL servicers from the scope of the Guidelines and this approach would not be aligned with the objective of the Guidelines to enhance the protection of consumers irrespective of the provider with whom they conclude the credit agreement. This respondent however acknowledged that the part of the JC Guidelines referring to supervisory reporting could not be applied to non-regulated entities	It is EBA's understanding that this respondent is of the view that the JC complaints-handling guidelines should be extended to non-NPL servicers. The EBA takes note of the concern raised by the respondent that extending the JC Guidelines to credit servicers only would not be aligned with the objective of the Guidelines to enhance the protection of consumers irrespective of the provider with whom they conclude the credit agreement. The EBA is however of the view that applying the JC Guidelines on complaints-handling to credit servicers under the CSD 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 under the CSD. It will also enhance the protection of consumers irrespective of the provider with whom they conclude the credit agreement, by imposing on credit servicers under the CSD the same requirements that already successfully apply to nearly all other financial institutions across the three sectors. The proposed Guidelines set out how to give effect to the provisions in Article 24(1) of the CSD which states that "Member States shall ensure that credit servicers should establish and maintain effective and transparent procedures for the handling of complaints from borrowers". The Guidelines can only be in support of provisions of a particular EU Directive. Considering that the CSD limits the requirements on complaints-handling to credit servicers, the EBA is of the view that the Guidelines should only be extended to those entities and not to non-NPL servicers. The EBA therefore arrived at the view that the draft Guidelines do not need to be amended.	None
3	The definition of complaints in the JC Guidelines is	Few respondents stressed that the definition of the 'complaints' in the JC Guidelines is too broad and would	Concerning the lack of similarities between the services offered by the banking, investment and insurance sectors and the services provided by the credit servicers, the EBA understands the concerns	None

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	too broad and does not acknowledge the specificities of credit servicers	need to be amended to acknowledge the specificities of the credit servicing industry. According to those respondents, there are not enough similarities between the services offered by the banking, investment and insurance sectors and the services provided by the credit servicers to apply the same definition of complaints. Those respondents also explained that the contractual relationship between banks, investment and insurance companies and their customers is not comparable to the relationship that credit servicers have with the borrowers. For those respondents, where banks, investment managers and insurance companies offer services to borrowers by virtue of a mutual agreement and interest in receiving products and services, credit servicing activities are provided towards the credit purchaser (not the borrower) and is a consequence of a contractual agreements having been terminated with the borrower for breach of contract, specifically in the case of non-performing loans. Furthermore, those respondents explained that most borrowers are dissatisfied with the situation where a credit agreement has been terminated and sold to a credit purchaser for collection by a credit servicer, also credit servicers receive much higher number of complaints than the banking sector. Consequently, if any 'statement of dissatisfaction' qualifies as a complaint with respect to credit servicing activities, such situation would create an increased use of human resources and administrative burdens for credit servicers (as well as for competent authorities considering the reporting obligation set in the JC Guidelines) to handle such complaints. Such situation would lead to difficulties to manage effectively borrower's complaints related to the wrongdoings by the credit servicer in the performance of	of the respondents but is of the view that the proposed Guidelines aim to avoid divergent transpositions across Member States (MS). The proposed Guidelines intend to contribute to a consistent approach to complaints-handling across the 27 EU MS with the same compliance impact as for other financial institutions, for all credit servicers under the CSD, in the interest of consumer protection. Concerning the administrative burden due to the specificity of the credit servicing industry which receive higher number of complaints than the banking sector, the EBA acknowledges the concerns raised by the respondents but is of the view that due to the nature of the credit servicing business model, credit servicers are facing anyway borrowers' dissatisfaction when the contractual agreement has been terminated by the creditor and later sold to a credit purchaser for collection by a credit servicer. Also, EBA believes that this administrative burden and potential costs which might arise are already born by the credit servicers irrespective of the application of the JC Guidelines to credit servicers. Concerning the other administrative burdens highlighted by the respondents, which are related to a lack of distinction in the JC Guidelines definition of complaints, between general dissatisfaction of borrower and dissatisfaction of actual (or alleged) wrongdoings by the credit servicer in the performance of the credit servicing activities, the EBA is of the view that the JC Guidelines' definition of complaint addresses this concern. Indeed, the EBA is of the view that the JC Guidelines cover statement of dissatisfactions which concern 'credit servicing activities' as defined by Article 3(9) of the CSD and exclude statement of dissatisfactions outside of scope of those activities. Consequently, in EBA's view, statement of dissatisfactions addressed to credit servicers by borrowers concerning, for example, the payment obligations in relation to the debt which concern the actions and omissions of the credit purchaser, or which do not cover the actual wrongdoings by the credit Servicer, should be outside of	

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		the credit servicing activities and prove to be detrimental for consumer protection. These respondents therefore argued that the definition of complaints in the JC Guidelines should distinguish between a) a borrower's general dissatisfaction due to the situation of having a credit agreement terminated and b) a borrower dissatisfaction of actual (or alleged) wrongdoings by the credit servicer in the performance of the credit servicing activities (e.g. misconduct/breach of rules or code of conduct) and be amended accordingly. In particular one respondent stated that when implemented in the Member States, many CAs have included a qualification to ensure that general statements of dissatisfaction are not to be considered as complaints, suggesting the following wording "expresses concrete dissatisfaction with the management of a financial service or product. General comments and general expressions of dissatisfaction are not considered to be complaints, nor any grievances which must be regarded as having been of little importance to the customer." Another respondent suggested to apply the following definition: "Borrower Complaint means substantive and relevant remarks attributable to firm's management of the services within the framework of its duties as a Credit Servicer. A disputed case by the borrower or general dissatisfaction is not considered in this context as a complaint, nor is dissatisfaction that must be considered to have little significance for the borrower."	the scope of the JC Guidelines. In consequence, complaints-handling requirements would not apply to such complaints. In addition, the JC Guidelines states in the paragraph 4b), related to the definition of the scope of the JC Guidelines, that "These Guidelines do not apply where a firm receives a complaint about: […] 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)." In consequence, the application of the JC Guideline definition of complaints is not expected to create any additional administrative burden for credit servicers or national competent authorities. The EBA therefore arrived at the view that the draft Guidelines do not need to be amended.	
4	JC Guidelines should be amended to reflect credit	According to one respondent the EBA should consider an alternative policy option to the one stated in the consultation paper, which is using JC Guidelines as a basis and adapting or amending them with an annex specifying	The EBA understands the concerns of the respondents but is of the view that the proposed Guidelines aim to avoid divergent transpositions across Member States (MS) and contribute to a consistent approach to complaints-handling across the 27 EU MS	None

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	servicers specificities	the differences between financial institutions and credit servicers. According to this respondent credit servicers cannot be compared to bank because they are not financial institutions *per se* as they do not originate loans or have any direct contractual relationship with consumers. Instead, borrowers only find themselves in contact with credit servicers after they have consistently defaulted on their payment obligation to the point where their contractual partner (the bank) terminates the agreement, declares all outstanding amounts as immediately due and payable and sells the remaining claim. It leads to a situation where significantly different situations are treated equally.	with the same compliance impact as for other financial institutions, for all credit servicers under the CSD, in the interest of consumer protection. The EBA therefore arrived at the view that the draft Guidelines do not need to be amended.	
5	Costs borne by the private sector will not be exceeded by the benefits	According to one respondent, the percentage of complaints received by banks during the course of active credit agreements is significantly lower compared to the percentage of complaints received by credit servicers which, based on the very nature of their business, only service non-performing loans which were sold to a credit purchaser. This respondent therefore disagrees with the statement of the impact assessment that *"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."*	The EBA understands the concerns raised by the respondents but is of the view that due to the nature of the credit servicing business model, credit servicers are facing anyway borrowers' dissatisfaction when the contractual agreement has been terminated by the creditor and later sold to a credit purchaser for collection by a credit servicer. Also, EBA believes that this cost is already born by the credit servicers irrespective of the application of the JC Guidelines to credit servicers. In addition, considering that the JC Guidelines' definition of complaint exclude statement of dissatisfactions outside of scope of credit servicing activities (e.g. payment obligations in relation to the debt which concern the actions and omissions of the credit purchaser, or which do not cover the actual wrongdoings by the credit Servicer), the EBA is of the view that application of the JC Guidelines will not create any disproportionate costs for the credit servicers. The EBA therefore arrived at the view that the draft Guidelines do not need to be amended.	None

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
6	Exemption of the scope of the JC Guidelines	One respondent questioned whether the exemptions of the scope of the JC Guidelines under paragraphs 4 a) which refers to an exemption of "*activities other than those supervised by the competent authority" 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*" and paragraph 4 b) which refers to *"activities of another entity for which that firm has no legal or regulatory responsibility (and where those activities form the substance of the complaint)"* would be applicable to the credit servicers under the CSD.	The EBA understands the comment raised by the respondent regarding the application of the exemption of the scope of the JC Guidelines regarding the points mentioned in paragraphs 4a) and 4b) of the JC Guidelines. As stated in the rationale section of the consultation paper 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 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 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 has made those changes in the final Guidelines by repealing the extension of the EBA Guidelines on complaints-handling to authorities competent for supervising the new institutions under PSD2 and/or the MCD published in 2018 and amending the JC Guidelines. Consequently, paragraph 4a) of the JC Guidelines referring to the Article 5 of the Mortgage Credit Directive will not apply to the credit servicers under the CSD. Regarding paragraph 4b) related to the scope of the JC Guidelines, EBA confirms that it applies to credit servicers under the CSD.	The extension of the EBA Guidelines on complaints-handling to authorities competent for supervising the new institutions under PSD2 and/or the MCD published in 2018 will be repealed, consequently the reference to the Article 5 of the MCD and the sentences explaining how the NCAs under the MCD that are not within the scope of action of the EBA are addressed by the JC Guidelines in paragraphs 3, 4(a) (or), 8 and 9 of the JC Guidelines will not be applicable.

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
7	Guidelines 6b)	One respondent stated that Guidelines 6b) related to the requirements to *"Keep the complainant informed about further handling of the complaint"*, should read 6d) instead	The EBA acknowledges the comments received and confirms that the numbering of the Guidelines 6b) related to the requirements to *"Keep the complainant informed about further handling of the complaint"*, should read 6d).	The numbering of the Guidelines 6b) related to the requirements to *"Keep the complainant informed about further handling of the complaint"*, should read 6d).
8	Need for stakeholders to anticipate and prepare in good time for the implementation of the requirements, in particular in the interest of consumers.	The EBA Banking Stakeholder Group (BSG) expressed its support to point 11 of the Rationale referring notably to the following "[…] *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.*" According to the BSG this approach will allow stakeholders to have more time to prepare for the implementation of the requirements. This respondent also stated that it is important for consumers to have access, as soon as possible, to more efficient procedures which could help them to be better protected from a potential abusive behaviour of credit servicers.	The EBA acknowledges the comments received regarding the need for stakeholders to anticipate and prepare in good time for the implementation of the requirements, in particular in the interest of consumers. As stated in the consultation paper, because the amendments included in the European Commission Proposal for a PSR are expected to enter into force only in 2025, the EBA will wait with the translation of the Guidelines, and thus the start of the compliance notification period for NCAs, until the proposed Payment Services Regulation (PSR) will have entered into force (likely in early 2025), as this will amend the definition in the EBA regulation of 'competent authorities'. As a result, the Guidelines will not yet set a fixed application date. Instead, the application date is relative, i.e. 3 months after the entry into force of the PSR and the amendments of the EBA Regulation. This is expected to be, sometime in 2025, and the precise application date will be added to the Guidelines at that point in time. Until then, credit servicers have extra time to prepare to be compliant with the guidelines. However, to allow the stakeholders to anticipate and prepare in good time for the implementation of the requirements and to support the transposition of the Guidelines by the Member States	The application date of the final Guidelines will be set for 3 months after the entry into force of the proposed Payment Services Regulation (PSR), which is expected sometime in 2025.

Nr.	Comments	Summary of responses received	EBA analysis	Amendments to the proposals
			the EBA will publish already in 2024, the final report with the final Guidelines. The EBA is of the view that this approach would prove beneficial for the transposition of the Article 24(1) of the CSD by the Member States, for the industry which will have sufficient time to prepare for the application of the Guidelines, but also for consumer who will be made aware that the JC Guidelines will be extended to credit servicers, already in 2024.	

4. Annex

Consolidated Joint Committee Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors

JC/GL/2014/XX

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Joint Committee Guidelines

on Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors

	Application date
O JC Guidelines for complaints-handling	25.10.2014
Amended by:	
A1 JC /GL/2024/XX	Insert date

Guidelines on 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. 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.

   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

4. These guidelines are issued pursuant to Article 16 of the ESA Regulations[1]. In accordance with Article 16(3), competent authorities and financial institutions must make every effort to comply with the guidelines.

5. 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.

6. 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.

7. These guidelines apply from the date of the reporting requirement referred to in paragraph 6.

Definitions

8. 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

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   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'.

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9. 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.

firm(s)[11]	A1 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 (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: • 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 and electronic money institutions (as defined in Article 4(4) of the PSD, and Article 2(1) of the EMD respectively). • account information service providers as referred to in Article 33 (1) of PSD providing only the payment service as referred to in point (8) of Annex I of the PSD; • credit intermediaries and non-credit institution creditors (as defined in Article 4(5) and (10) of the MCD respectively), and • credit servicers (as defined in Article 3 (8) of the CSD) including non-NPL providers in case required by the national arrangements under Article 17 of the CSD.
complaint	O 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;

[11] Should additional EU Directives come into force that will bring new financial activities and/or financial institutions into the scope of action of an ESA, said ESA will consult on any extension of the applicability of the Guidelines to these firms and activities.

	A1 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.
complainant	O 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.

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Guidelines on complaints-handling

Guideline 1 – Complaints management policy

1. Competent authorities should ensure that:
   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.

Guideline 2 – Complaints management function

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.

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.).

    d) 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.