



CSSF REGULATION NO. 16-07 ON THE OUT-OF-COURT SETTLEMENT OF COMPLAINTS

The Luxembourg Financial Supervisory Authority (the Commission de Surveillance du Secteur Financier – « **CSSF** ») has released a new regulation, the regulation N° 16-07 relating to out-of-court complaint resolution (the « **Regulation** »). The Regulation implements the new rules introduced into the Consumer Code in 2016.

The CSSF competence

The CSSF has been designated, on the basis of a certain number of criteria, as the entity qualified to handle out-of-court resolutions of consumer's disputes of supervised entities (the "Entity/ies"). The CSSF meets the expected required qualifications like independence, impartiality, transparency, efficiency, rapidity and equity in order to act as the competent authority and to process financial sector consumers claims.

The CSSF has a real conciliation role in the pre dispute discussions before taking action at a first-instance court. It examines and treats the claims in law and in equity. The CSSF processing of the claims is free. In addition, the presence of a lawyer or other legal advisor is not required during the procedure.

The claim

According to the Regulation, a claim is defined as a « complaint filed with a professional to recognise a right or to redress a harm ».

Preliminary conditions and admissibility

The preliminary condition to institute an out-of-court proceeding is that a complaint be filed in writing with the responsible person appointed to treat the claims at the level of the direction of the Entity (the « Responsible »).

The complaint will not be processed by the CSSF if it (i) has already been or is currently being examined by another alternative dispute resolution body, arbitrator, arbitration tribunal or a court, in Luxembourg or abroad, or if it (ii) concerns the business policy or a non-financial product or service of the Entity.

Deadlines and formalism

Only the absence of or a non-satisfactory answer of the Entity issued within one (1) month as from the date at which the complaint was sent opens the way to bring the complaint before the CSSF.

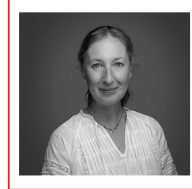
The complainant shall then have a period of one (1) year to file the complaint with the CSSF. In terms of formalities, the complaint must be filed with the CSSF in writing, by post, fax or online via the CSSF's website. The CSSF shall have a period of three (3) weeks to inform the complainant if it accepts or refused to deal or not to deal with the complaint.

The Regulation lists (albeit non-exhaustively) the documents necessary to the application while reserving the possibility to the CSSF to required any other complementary document or information it considers relevant to instruct the complaint.

The CSSF conclusions

The litigation is in principle treated by the CSSF within ninety (90) days. The compromise proposed by the CSSF is formalized in the form of a letter of reasoned conclusions addressed to the parties. The conclusions constitute a motion for an amicable resolution of the dispute. They do not have any binding force.

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Ulrike Jacquin-Becker

Avocat à la Cour
ulrike.jacquin-becker@harvey.lu

