

Complaints

Policy

Niche AM is required to have in operation written procedures for the effective consideration and proper handling of complaints from its customers, potential customers or former customers relevant to its compliance with the regulatory system. Each member of staff responsible for dealing with investors and potential investors must be aware of the complaints handling procedures.

Complaints are considered under four categories. Namely: MiFID - Eligible complainants; MiFID - Non-eligible complainants; non-MiFID - Eligible complainants; and non-MiFID - Non-eligible complainants. This assessment is regardless of when the activity complained about took place.

An “eligible complainant” includes: consumers – defined as any natural person who is acting for purposes which are outside their trade, business, craft or profession; micro enterprises and small charities and trusts (as defined in DISP 2.7 of the FCA Rules).

Following an assessment of the products and services provided and the clients/potential/former clients, Niche AM has assessed the following categories as relevant to its business.

- MiFID – Eligible complainants; and
- non-MiFID – Eligible complainants.

Each product or service the Firm provides should be identified as to whether it is a MiFID product or service, a non-MiFID product or service or where the product or service combines both MiFID and non-MiFID elements, which elements fall under which definition.

What is a Complaint?

A complaint is any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service or a redress determination, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience. A complaint can be made by a potential, actual or former clients, regardless of whether they are categorized as professional or eligible counterparty. This can be communicated by any reasonable means (e.g. by letter, telephone, e-mail, social media or in person). It is noted that all complaints should be able to be submitted free of charge.

It is important to note that a complaint can be considered by the Financial Ombudsman Service (“FOS”), whether or not the complainant lives or is based in the United Kingdom.

What is a MiFID Complaint?

A MiFID complaint is, amongst other things, a complaint to which article 26 of the MiFID Org Regulation applies, and so refers to a complaint about:

- The provision of investment services or ancillary services to a client by an investment firm;
- The provision of one or more investment services to a client by a CRD credit institution;

- Selling structured deposits to clients, or advising clients on them, where the sale or advice is provided by an investment firm or a CRD credit institution;
- The activities permitted by article 6(3) of the UCITS Directive when carried on by a collective portfolio management investment firm; and
- The activities permitted by article 6(4) of the AIFMD when carried on by a collective portfolio management investment firm.

A MiFID Complaint is also a complaint about the equivalent business of a third country investment firm, though requirements apply to complaints from elective professional clients only.

A non-MiFID Complaint is one which would fall outside the above and includes, inter alia:

- Complaints from Unit Holders/Eligible Complainants regarding collective portfolio management services in respect of a UCITS scheme carried out by a UK management company or an EEA UCITS scheme provided under the freedom to provide cross border services;
- Complaints from Unit Holders regarding collective portfolio management services carried out by a Branch of a UK management company in respect of an EEA UCITS Scheme;
- Complaints from Unit Holders/Eligible Complainants regarding collective portfolio management services in respect of an EEA UCITS scheme carried out by a branch of an UCITS management company;
- Complaints regarding an incoming EEA AIFM, for complaints regarding AIFM management functions carried out for an authorized AIF or an UK ELTIF under the freedom to provide cross border services; and
- Complaints regarding a full-scope AIFM, small authorized AIFM or an incoming AIFM, for complaints concerning AIFM management functions carried out for an AIF that is a body corporate (unless it is a collective investment scheme).

Procedure

Any members of staff who receive a complaint are required to pass the details on to the Compliance Officer immediately.

Complaints Handling Process

Once a MiFID-eligible complainant complaint has been received, the Firm must:

1. Send the complainant a prompt written acknowledgement providing early reassurance that Niche AM has received the MiFID complaint and is dealing with it, including a copy of the complaint procedure;
2. Ensure the complainant is kept informed thereafter of the progress of the measures being taken for the MiFID complaint's resolution; and
3. Record the complaint in the complaints register, including but not exclusively, record keeping of each stage of the process, any potential conflicts of interest that arose during the complaints process, who dealt with the complaint, location of evidence used to assess the complaint, whether the complainant is an eligible complainant, whether the complaint is upheld, what remedial action/redress is required (if appropriate) and confirmation the remedial action/redress has been complied with.

The process should ensure that the Firm:

- Investigates the complaint competently, diligently and impartially in an independent manner;
- Assesses fairly, consistently and promptly:
 - The subject matter of the complaint;
 - Whether the complaint should be upheld;
 - What remedial action or redress (or both) may be appropriate;
 - If appropriate, whether Niche AM has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in the complaint.

Where the complainant is an eligible complainant for the purposes of the complaint, the Firm should ensure the response includes:

- A copy of the FOS's standard explanatory leaflet;
- The website address of the FOS;
- Notice to the complainant that if, still dissatisfied with the respondent's response, the complaint may now be referred to the FOS; and
- Indication of whether or not the respondent consents to waiving the relevant time limits in DISP 2.8.2R or DISP 2.8.7R (was the complaint referred to the FOS in time?) by including the appropriate wording set out in DISP 1 Annex 3R.

These should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses. Niche AM should ensure that responses are prompt when taking into consideration the complexity of the complaint and it is noted the FOS and the FCA may have regard to a number of factors, including, the quality of response, as against the above rules, as well as the speed with which it was made. It is noted that the Firm has eight weeks from receipt of the MiFID – Eligible Complainant or non-MiFID complaint – Eligible Complainant complaint to respond, but this is a maximum and not a target.

Where Niche AM has assessed the complainant is not an eligible complainant for the purposes of the complaint, the Firm should ensure the response includes:

- Confirmation the Firm has reached the end of its internal process and therefore should the complainant remain unhappy with the response, they have open to them the right to take civil action against Niche AM; and
- Confirmation of where legal documents should be addressed to or reference to the fact this is detailed in the contract terms.

Should the complaint be referred to the FOS, the Firm must cooperate fully with the FOS (or other ADR provider) and comply promptly with any settlements or awards made by it.

Record Keeping Requirements

The Firm's Compliance Officer is responsible for recording each complaint received and the measures taken for its resolution. These records must be kept for at least five years from the date the complaint was received. The Compliance Officer must also ensure the Firm provides the FCA with a complete report on the complaints received from eligible complainants (or a nil return declaration, as applicable)

via GABRIEL twice a year. These reports must be submitted within 30 business days of the end of their relevant period.

Compliance with these policies and procedures is monitored through Niche AM's Compliance Monitoring Program and the Compliance Officer's annual report to the Firm's senior management will include confirmation of any complaints by eligible complainants referred to the FOS during the period under review, and their outcomes as well as inform them of any new complain who fit the characteristics of an eligible complainant.

Latest update: February 1st , 2021