

# Complaints Handling Appendix

March 2021



### DOCUMENT STATUS

Policy Last updated (if applicable)	N/A
Policy Effective Date	15/04/2021

### OWNERSHIP OF DOCUMENT

Policy Owner	Sebastian Roth, Conducting Officer in charge of Compliance
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### APPROVAL AND REVIEW

INSERT ✓		APPROVAL DATE	NEXT REVIEW DATE
✓	The Board of DGFM Luxembourg (the "Board")	Q1 2021	Q1 2022

### LEGISLATIVE/REGULATORY REQUIREMENT(S)

- Law of 17 December 2010 relating to undertakings for collective investment
- Commission de Surveillance du Secteur Financier ("CSSF") Regulation No. 10-4 transposing Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organizational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company
- CSSF Regulation No. 16-07 relating to out-of-court complaint resolution
- CSSF Circular 18/698 relating to authorization and organization of investment fund managers incorporated under Luxembourg law

### LEGAL ENTITIES APPLICABLE:

Davy Global Fund Management Luxembourg S.A. ("DGFM Luxembourg") and its subsidiaries.

### DEPARTMENTS/ OPERATIONAL AREAS APPLICABLE:

All departments and operational areas at DGFM Luxembourg and its subsidiaries.

## 1.0 INTRODUCTION

Davy Luxembourg (understood as any Davy Group entity being domiciled in or conducting business activities in the Grand-Duchy of Luxembourg) is part of the Davy Group. This Appendix has been designed specifically for Davy Luxembourg to meet Luxembourg regulatory and legal requirements. This document should be read in conjunction with the Davy Group Complaints Handling Policy.

Davy Luxembourg has established and implemented effective and appropriate procedures and controls to ensure complaints received from clients are dealt with reasonably, promptly, effectively and in a transparent manner.

This document is intended to provide an overview to clients how complaints are handled at Davy Luxembourg as required by the Law of 17 December 2010 on undertakings for collective investment, provisions of Commission de Surveillance du Secteur Financier (“CSSF”) Regulation No. 10-4, CSSF Regulation No.16-07 and other valid regulations (e.g. CSSF Circular 18/698).

As per CSSF Regulation 16-07 a complaint is defined as a claim or “complaint filed with a professional to recognize a right or to redress a harm”.

The Davy Luxembourg’s Head of Compliance, who also serves as the Complaints Officer, is responsible to ensure any complaint received by Davy Luxembourg is handled in line with this document and applicable laws and regulation.

## 2.0 COMPLAINTS

A complaint is deemed to be any expression of dissatisfaction by an investor or potential investor. The complaint or grievance may be in respect of any aspect service, marketing, administration (initial or on-going), sales process, or any other aspect of Davy Luxembourg, where a customer has got a grievance.

## 3.0 RECEIVING COMPLAINTS

Any complaint may directly be directed to Davy Luxembourg for the attention of the Complaints Officer, who also is serving as Davy Luxembourg’s Head of Compliance.

Davy Luxembourg provides management company services to third party collective investment schemes. Based on the operational structure of the service provided, Davy Luxembourg may receive complaints through any of its delegates, which includes but is not limited to Depositaries, Investment Managers, Distributors, or Central Administrators. Therefore, any complainant may direct his/her complaint to the delegates, who will in turn notify Davy Luxembourg.

Davy Luxembourg ensures that its Complaint Officer will be notified promptly by its employees, officers, directors and delegates to investigate and resolve the complaint as required under Luxembourg rules. Such notification will be made in writing and include information, including but not limited to the date the complaint was received, identification information of the complainant and the content of the complaint. The request may be filed in Luxembourgish, German, English or French.

## 4.0 INFORMATION AND DOCUMENTATION TO BE PROVIDED BY THE COMPLAINANT

When filing a complaint, the complainant shall, as much as possible, provide Davy Luxembourg with the following information, to enable the latter to deal with the complaint in an appropriate manner and without undue delay due to lack of information:

- identification of Fund and Sub-Fund concerned by the complaint;
- a detailed chronological summary of the facts leading to the complaint (including copies of documents or previous communications with the company subject to the complaint);
- if someone is acting on behalf of the complainant, a document confirming their power to represent her/him; and
- a copy of the complainant’s current passport or identity card and, where applicable, that of her/his representative.

## 5.0 WHERE SHOULD THE COMPLAINT BE SENT TO

A complaint or question about this document should be sent to the following email address: [DGFMLuxComplaints@davygfm.com](mailto:DGFMLuxComplaints@davygfm.com) and cover all aspects defined in the above section.

Alternatively, a complaint can be sent by post to the following address:

Att. Compliance Department  
Davy Global Fund Management  
1, rue Hildegard von Bingen  
L-1282 Luxembourg  
Grand Duchy of Luxembourg

## 6.0 HANDLING OF A COMPLAINT RECEIVED

After having received a complaint Davy Luxembourg will ensure the complaint is acknowledged in writing within 5 business days of its receipt, and in any event within a period which shall not exceed 10 business days after receipt of the complaint, unless complaint has been treated and a formal response has been given prior to the 10th business day after receipt of the complaint.

Davy Luxembourg will provide the complainant information on the out-of-court complaint procedure of the CSSF in writing.

Where required, Davy Luxembourg will collate additional relevant information and evidence while investigating the complaint. Additional information may be requested from the complainant, such as which exact product is concerned. Lacking information may delay a final written response.

Davy Luxembourg will send a final written response to the complainant either by email or by letter. Such final written response should be provided to the complainant as soon as practicable and no later than one month from the receipt of the complaint. The final written response will contain the results of the investigation conducted, a clear explanation why a complaint is upheld or rejected by Davy Luxembourg, where applicable details on any redress or compensation offered

Should it not be possible for Davy Luxembourg to provide a final written response within one month, Davy Luxembourg will inform the complainant about the cause of the delay and an anticipated resolution date.

Any communication with the complainant will be made by using plain and comprehensive language.

## 7.0 COMPLAINTS UPHELD

Davy Luxembourg may consider appropriate redress, including but not limited to an amount of compensation or an apology. Should the complaint be upheld, and a compensation is chosen as redress, the amount of compensation should be appropriate, fair and reflecting the acts or omissions Davy Luxembourg is responsible for. Any such compensation will require pre-approval of two Davy Luxembourg's senior managers. Davy Luxembourg will inform the complainant, should obtaining such pre-approval delay providing the final response as above.

## 8.0 REFERRAL TO THE CSSF

Where a complainant does not deem the response received from Davy Luxembourg to be satisfactory, they shall be informed by Davy Luxembourg in writing of the CSSF out-of-court complaint resolution procedure as set out in CSSF Regulation No. 16-07 and shall be sent a copy thereof or provided with the direct link to the document on the CSSF's website, as well as the different means to contact the CSSF. The complainant may then proceed to file his/her complaint directly with the CSSF within one year after s/he filed his/her complaint with Davy Luxembourg.

The CSSF's procedure for handling complaints is aimed at facilitating the resolution of complaints against professionals without judicial proceedings. The CSSF is entitled to end the procedure at any time should any of the parties use the procedure for other purposes than the search for an amicable settlement of the complaint. The procedure is not a mediation procedure within the meaning of the law of 24 February 2012 introducing the mediation in civil and commercial matters.

The following instances would not be deemed to constitute an admissible complaint by the CSSF as defined by Article 4 of CSSF Regulation No. 16-07:

- the complaint has been previously or is currently being examined by another alternative dispute resolution body, arbitrator, arbitration tribunal or a court, in Luxembourg or abroad;
- the complaint concerns the business policy of Davy Luxembourg;
- the complaint concerns a non-financial product or service;
- the request is unreasonable, frivolous or vexatious;
- the complaint has not been previously submitted to Davy Luxembourg in accordance with CSSF Regulation No. 16/07. The procedure by the CSSF is subject to the condition that the complaint has been previously dealt with by the concerned company. To satisfy this requirement, the complaint must have been

previously sent in writing to Davy Luxembourg's Complaints Officer and the complainant must not have received a satisfactory answer from that person within one month from the date at which the complaint was sent;

- the complainant has not filed a request with the CSSF within one year after s/he filed a request with Davy Luxembourg;
- the request handling would seriously impair the efficient functioning of the CSSF.

### **8.1 REQUEST PROCEDURE**

The request must be filed with the CSSF in writing. The communication channel shall be post or fax or email to the address/number respectively available on the CSSF's webpage, or filed online via the CSSF's webpage. The CSSF publishes a template to be completed on its website to facilitate and harmonize the requests.

The parties involved may seek an independent opinion or be represented or assisted by a third party at all stages of the procedure, however access to it is not limited to retaining an advisor or lawyer.

When filing a complaint, the complainant shall, provide the CSSF with the following information, to enable the latter to deal with the complaint in an appropriate manner:

- a detailed chronological summary of the facts leading to the complaint (including copies of documents or previous communications steps undertaken by the complainant with regard to the company subject to the complaint);
- a copy of the complaint filed with Davy Luxembourg;
- a copy of the answer to the prior complaint or the confirmation by the complainant that s/he did not receive an answer one month after s/he sent his/her prior complaint to Davy Luxembourg;
- a statement by the complainant confirming that s/he did not refer the matter to a court, an arbitrator or another out-of-court complaint resolution body in Luxembourg or abroad;
- a statement to agree with the request handling conditions of the CSSF as body responsible for the out-of-court resolution of his/her complaint;
- the authorization of the complainant so that the CSSF can transmit its request (including the attachments) as well as any future correspondence or information to Davy Luxembourg;
- if someone is acting on the complainant's behalf, a document confirming their power to represent her/him; and
- a copy of the complainant's current passport or identity card and, where applicable, that of her/his representative.

The CSSF may request any other document or information, in any form, it may deem necessary. The request by the complainant shall be filed in Luxembourgish, German, English or French. The procedure will, in principle, be conducted in one of the above-mentioned languages in which the request was filed with the CSSF.

As soon as the CSSF received all the documents or relevant information it deems necessary, it confirms to the applicant and to the professional in writing or by way of a durable medium that it has received the complete request and the date of receipt of the complete request.

Should the CSSF deem to be unable to deal with the request, it provides a detailed explanation of the reasons why it does not deal with the complaint to the parties concerned within three weeks after the receipt of the complete request. Should the CSSF deem to be able dealing with the complaint, it informs the parties of its acceptance.

Upon concluding the analysis, the CSSF addresses a conclusion letter to the parties, including providing reasons for the position taken. Where it concludes that the request is entirely or partly justified, it asks the parties to contact each other to settle their dispute considering the conclusion provided and to inform it of the follow-up.

Should the CSSF conclude that the positions of the parties are irreconcilable or unverifiable, it informs the parties thereof in writing.

In any case, the CSSF will inform the relevant parties that its conclusion may differ from a competent court, and that its conclusion is not binding to the parties, each party is free to accept or refuse to follow the CSSF's analysis. It is to be highlighted that there remains the possibility to seek remedies through legal proceedings should the parties fail to conclude an agreement after the CSSF provided its analysis.

All parties will be asked by the CSSF to notify it and confirm should the relevant party accept, refuse or

follow the CSSF's conclusion.

Normally, the correspondence with the CSSF will be in writing. One or several meetings with the parties may be requested by the CSSF, where the CSSF deems it to be necessary.

The CSSF normally provides its analysis within 90 days. This period will start as soon as the CSSF deems to have received a complete request and will be confirmed in the acceptance letter under the conditions as described above. Should the CSSF determine the case to be highly complex, the 90 days period may be prolonged. Any prolongation will be confirmed by the CSSF as soon as practicable and prior to the end of the initial 90 days period at the latest.

The CSSF out of court dispute resolution procedures will conclude as soon as

- the CSSF confirms in writing to be unable dealing with the request;
- the CSSF provides its conclusion in writing;
- the complaint has been submitted to a Luxembourg or foreign court;
- the complaint has been submitted to an arbitrator or other dispute settlement mechanism in Luxembourg or abroad;
- any party withdraws in writing (must be notified to the other party and the CSSF within a reasonable period in writing);
- the time for exercising the rights related to the complaint expired;
- the applicant/complainant does not provide the additional documents, information, explanations or positions requested by the CSSF within the period set by the CSSF; and/or
- the parties reached an agreement to settle the dispute and informed the CSSF thereof.

## 9.0 CONFLICT OF INTEREST

Potential conflicts of interest related to complaints handling are treated within the general framework of conflict of interest management as described in the dedicated Conflict of Interest Policy of Davy Luxembourg.

The Company has adopted a Code of Conduct, which promotes the protection of investors and their interests that is aimed, amongst others, at preventing potential conflicts of interests to interfere in the treatment of investor complaints.

In its role as a Management Company of Investment Funds, Davy Luxembourg will report all complaints to the Board of Directors of the Funds concerned by the complaints. This escalation process to the Board of Directors of the Investment Funds concerned ensures that the conflicts of interests potentially arising from complaints will be mitigated by the oversight of the Board of Directors.

## 10.0 ADDITIONAL ACTIONS TAKEN

Davy Luxembourg will analyze all complaints received to assess if the complaints received are based on a systematic failure related to processes or controls of Davy Luxembourg or any delegate and will ensure to address such systematic deficiencies. Additionally, all complaints will be escalated as appropriate, including Davy Luxembourg's senior management, and any board or equivalent of the fund affected by the respective complaint. Such escalation will include the background of the complaint, actions taken for the resolution, where applicable steps undertaken to prevent a similar reoccurrence in the future, and the financial, legal and regulatory impact.

Davy Luxembourg will annually provide a report to the CSSF providing details on complaints received.

## 11.0 DISCLOSURE

Davy Luxembourg discloses the Davy Group Complaints Handling Policy and Appendix on its website and will upload any new version made available at least on an annual basis. Davy Luxembourg ensures that the disclosure is clear and easily understandable and accessible.

The Complaints Handling Policy and Appendix are also made available on the Intranet of Davy Luxembourg for all staff members.

## 12.0 REVIEW AND IMPLEMENTATION OF THE POLICY

The board of directors of Davy Global Fund Management Luxembourg S.A. (the "Board") has adopted the



Davy Group Complaints Handling Policy and Appendix. The Appendix is reviewed at least on an annual basis and more often in case of changes to the Luxembourg rules. Amendments of the Appendix will only need to be approved by the Board in case of material changes or if determined by the Policy Owner.