

Capital**BAY**

Complaints Management Policy

2021

CAPITAL BAY FUND MANAGEMENT

(hereafter "Company")

2, rue Jean Monnet

L-2180 Luxembourg

A Company of **CAPITAL BAY GROUP**

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DEFINITIONS

AIFM Law	Luxembourg Law of 12 July 2013 on alternative investment fund managers
Complaint Manager	Mr Thorsten Steffen Phone: +352 2866 9489 – 1 Fax: +352 2866 9489 – 20 thorsten.steffen@capitalbay.lu
CSSF	Commission du Surveillance du Secteur Financier – Luxembourg financial supervisory authority
Investor	For the purposes of this Policy an investor shall mean any investor (<i>i.e. private or institutional</i>) in an AIF managed by the Company

OBJECTIVE

Main objectives of this complaints handling policy is to ensure:

- a distinct complaint channel for Investors to address their complaints;
- that each complaint is recorded and followed up;
- prompt and reasonable complaint handling;
- transparency to Investors and the CSSF;
- equal treatment of all Investors;
- avoidance of reputational risks for the Company.

INTRODUCTION

For the purpose of this Complaints Management Policy, a complaint means a complaint filed with the Company to recognise a right or to redress a harm (a **Complaint**). A Complaint may have the form of a statement of dissatisfaction addressed to the Company by a natural or legal person relating to the provision of services. A mere request for information or explanation is not considered as a Complaint. A Complaint without any link with a financial product or service is not a Complaint to be reported under the Complaints Management procedure as described below.

Relationships with private or institutional clients require the Company to handle Clients complaints received at no cost in a suitable, transparent, efficient and objective manner. The obligation to provide a suitable response to complaints requires not only impeccable behaviour of the Company but it also represents an essential element of the Company's brand image and part of each entity's goodwill protection whilst maintaining a level of trust

with Clients. Client's complaints can be a revealing symptom of underlying problems for the Company.

Mindful of its image, the Company has put in place and maintains an efficient and transparent procedure in order to ensure that complaints received from Clients are dealt quickly and reasonably.

RESPONSIBLE FOR COMPLAINT HANDLING

The Senior Management of the Company has appointed a member of the Senior Management as the person responsible concerning all Complaints/claims made by Clients to the Company (the **Complaint Manager**). The Complaint Manager is directly in charge of the implementation and efficient operation of a structure as well as this internal procedure. The Complaint Manager is in charge of handling each Complaint, always with a view to avoiding possible conflicts of interests.

However, when, in view of the nature, the number or complexity of the Complaints, the Company considers that it is appropriate to designate one or several persons in charge of the Complaints, the Complaint Manager may, subject to prior notification to the CSSF, delegate the management of these Complaints internally. In this case, the Complaint Manager keeps ongoing knowledge and control of the complaint handling internally.

The Complaint Manager informs the relevant staff of the Company of the policies and procedures as well as any change thereto. In addition, the Complaint Manager determines the human and technical resources necessary to correctly apply the principles laid down in the Complaints Management Policy (the **Complaint Handlings Team**).

Complainants will be invited, either through the Company's website, or the Company's brochures or contractual documents, to file a Complaint with the Company by using the following communication channels:

- sending an email to compliance@capitalbay.lu, or
- sending a registered letter to:

Capital Bay Fund Management
Attn. Thorsten Steffen
2, rue Jean Monnet
L – 2180 Luxembourg

COMPLAINTS HANDLING PROCEDURE

Receipt of Complaints

Written Complaint

High-level process overview for a written complaint:

- Original to be stamped with the date of receipt;
- Original to be scanned and classified in the complaints paper file;
- Scan of the complaint to be sent to the Complaint Manager and a copy to all members of the Senior Management;
- Complaint Manager should ensure the efficient tracking of complaints in the Complaint Register;
- Complaint Manager should coordinate further action and reply to the complaining Client(s);
- Complaint Manager should ensure an on-going up-date of the complaint register and follow up of the agreed actions.

The above listed high-level process overview will not replace the detailed process description on the following pages.

Verbal complaint

A complaint transmitted verbally by a Client, or by a third party, will be summarised in written form. The summary is then treated in the same way as a written complaint (*please see above section Written Complaint*).

Handling Procedure

Upon receipt of a Complaint, the Company shall endeavour to promptly contact the complainant to acknowledge receipt of the Complaint and/or provide a response to the complainant as follows:

- 1) upon receipt of the Complaint, a member of the Complaints Handling Team will record the Complaint and inform the Complaint Manager immediately upon recording of the Complaint, a complaint number will be issued;
- 2) if a Complaint has been received by the Company and relates to one of its service provider, the Complaint Manager forwards the Complaint to the concerned service provider and informs the complainant within 10 business days (Luxembourg) after receipt of the Complaint;
- 3) in the case of a Complaint vis-à-vis the Company, a written acknowledgement of receipt will be provided to the complainant as soon as possible, and in any case within 10 business days after receipt of the Complaint, unless the response itself is provided to the complainant within this period. The acknowledgment of receipt will include:
 - a. the name of the complainant and the date of receipt of the Complaint;

- b. the Complaint recording number;
 - c. the name and contact details of the member of the Complaints Handling Team in charge of the Complaint (that person will be the contact person of the complainant throughout the internal handling procedure for his/her/its Complaint);
 - d. indicative timetable for handling the Complaint and notably an information as to whether the response may take longer than a month from receipt of the Complaint and the reason why as well as the date at which the examination of the Complaint is likely to be achieved (otherwise the reply shall be provided within a month from receipt of the Complaint);
 - e. the existence of, and the commitment of the Company to resort to, the out-of-court complaint resolution procedure before the CSSF, the link to the website of the CSSF and other means available to submit a request to the CSSF; and
 - f. any other relevant information in the context of the Complaint;
- 4) the member of the Complaints Handling Team in charge of the Complaint will be the contact person of the complainant throughout the internal handling procedure as regards the Complaint in question;
- 5) the member of the Complaints Handling Team in charge of the Complaint will seek to gather and to investigate all relevant evidence and information on each Complaint and provide a response in a plain and easily comprehensible language to the complainant without undue delay and in any case, within a period which cannot exceed one month between the date of receipt of the Complaint and the date at which the response to the Complainant was sent. Where a response cannot be provided within this period, the member of the Complaints Handling Team in charge of the Complaint will inform the complainant of the causes of the delay and indicate when the assessment is likely to be finalised;
- 6) where the complainant did not obtain a response or a satisfactory response from the Complaints Handling Officer, the complainant will be informed of its right to escalate the Complaint directly to the Company's Management. The member of the Complaints Handling Team in charge of the Complaint will, where possible, seek to obtain confirmation of the complainant that any issues have been satisfactorily resolved;
- 7) the Complaint Manager will ensure that a proper follow-up and a final response is sent to the complainant without undue delay in line with the indicated deadline indicated in point 5) above;
- 8) Where the Complaint handling at the level of the Complaint Manager did not result in a satisfactory response for the complainant, the Complaint Manager will:
 - a. provide the complainant with a full explanation of the Company's position as regards the Complaint;

- b. confirm the Company's decision to have recourse to the out-of-court complaint resolution procedure to resolve the dispute and inform the complainant, on paper or by way of another durable medium, of existence of the procedure for out-of-court resolution of Complaints before the CSSF in line with the CSSF Regulation 16-07 and include (1) a website link to Regulation 16-07, where appropriate, or (2) a copy of the CSSF Regulation 16-07 and (3) the contact details of the CSSF to file a request. In particular, the Complaint Manager will inform the complainant that he/she/it should file a request with the CSSF within a year at the latest after the date on which the complainant has introduced his/her/its Complaint (on the same subject) with the Company's Complaint Manager, in accordance with Article 5(1) of CSSF Regulation 16-07.

The CSSF also participates in the online alternative dispute resolution procedure under Regulation 524/2013, which is related to the European platform for online dispute resolution (an additional instrument made available (only) to the consumers that wish to start an online out-of-court settlement procedure for their national or cross-border dispute).

- c. inform the complainant on his/her/its option that he/she/it is able to take civil action;
- 9) in the context of an out-of-court resolution process before the CSSF , the Company will fully cooperate with the CSSF and provide with any requested additional information, documents or explanations and or take position on the facts or opinions as presented by the complainant. In that respect, the CSSF is the competent authority for the out-of-court settlement of complaints.

In any case, no Complaint shall remain unanswered by the Company. Any action taken including the date of the response shall be tracked in the Complaint Register and a copy of the correspondence will be filed in a specific folder for complaints.

Please refer to Appendix A for an indicative timeline of the Complaint Handling Procedure.

COMPLAINTS RESOLUTION BEFORE THE CSSF

The CSSF is the relevant authority for receiving requests for the out-of-court resolution (hereafter "request") of a complaint from professionals without judicial proceedings. The out-of-court complaint resolution before the CSSF is free of charge. Moreover, no charges will be reimbursed to the parties.

The parties may be represented or assisted by a third party at all stages of the procedure, which is essentially written. Nevertheless, if the CSSF deems it necessary for the examination of the file, it may convene a meeting with the parties.

The CSSF takes the necessary measures to ensure that the processing of personal data complies with the applicable rules of the personal data protection. The parties and the agents in charge of handling the out-of-court resolution of complaints within the CSSF are bound by an obligation of confidentiality and by the professional secrecy.

Each year, the CSSF will report on its activities as regards the out-of-court resolution of complaints.

If the Client did not receive an answer or a satisfactory answer from the Company within one month from the date at which the Complaint was sent, they may file their request with the CSSF within one year after filing the complaint with the Company.

The complaints resolution procedure before the CSSF includes, notably, the below steps:

1) Introduction and information of the parties about the Complaint

Where the CSSF receives a request (from the complainant) that meets all the relevant conditions (as described in the Regulation 16-07), it will transmit a copy thereof to the Company, with the request to take position within a period up to one month from the date at which the file was sent. The CSSF informs the complainant of such transmission.

The request must be filed with the CSSF in writing, in Luxembourgish, German, English or French language and forwarded:

- by post;
- or by fax;
- or by email;
- or online on the CSSF website.
- It is also possible to file a request using the form available on the CSSF website.

The request shall be supported by a statement of the reasons, on which it is based together with, inter alia, the following documents:

- a detailed and chronological statement of the facts underlying the complaint and the steps already taken by the Client;
- a copy of the prior complaint previously submitted to the Complaint Manager;

- a copy of the answer to the prior complaint or the confirmation by the Client that he/she did not receive an answer within one month from the date at which they sent the prior complaint;
- the statement of the Client that he/she did not refer the matter to a court, an arbitrator or another alternative dispute resolution body in Luxembourg or abroad;
- the agreement of the Client with the request handling conditions of the CSSF as body responsible for the out-of-court resolution of his complaint;
- the express authorisation of the Client so that the CSSF can transmit its request (*including the attachments*) as well as any future correspondence or information to the Company concerned by the request;
- in the case where a person acts on behalf of a Client or on behalf of a legal person, a document showing that the person is legally entitled to act so;
- a copy of a valid ID document of the Client (*natural person*) or, where the Client is a legal person, of the natural person representing this legal person.

2) Additional information request

While analysing the file relating to the request, the CSSF may request the Company and the complainant to provide it with additional information, documents or explanations, in any form whatsoever, and to take position on the facts or opinions as presented by the other party within a reasonable period that cannot exceed three weeks.

3) Completion of the request

As soon as the CSSF is in possession of all the documents or relevant information, it will confirm to the complainant and to the Company 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.

Within three weeks after receipt of the complete request, the CSSF informs the Company and the complainant if it accepts to treat the request.

In the case where the CSSF is unable to deal with the request, it provides the Company and the complainant within three weeks after the receipt of the complete request with a detailed explanation of the reasons why it does not accept to deal with the Complaint.

4) Analysis and conclusion of the CSSF

Where the analysis of the file relating to the request is completed, the CSSF addresses a conclusion letter to the Company and the complainant, including the statement of reasons for the position taken.

- where it concludes that the request is totally or partly justified, it will ask the Company and the complainant to contact each other to settle their dispute in view of the reasoned conclusion and to inform it of the follow-up;
- where the CSSF comes to the conclusion that the positions of the parties are irreconcilable or unverifiable, it will inform the Company and the complainant thereof in writing.

The Company and the complainant will be informed that the conclusions reached by the CSSF after the analysis of the request may be different from the order of a court applying legal provisions and that due to the fact that the reasoned conclusions of the CSSF are not binding on the Company and the complainant, they are free to accept or refuse to follow them. In the conclusion letter, the Company and the complainant's attention will also be drawn to the possibility to seek remedies through legal proceedings, in particular, if the Company and the complainant fail to reach an agreement after the CSSF issued its reasoned conclusion. The CSSF will request in its reasoned conclusion, that the Company and the complainant inform it within a reasonable period set in the letter, whether they decided to accept, to refuse or to follow the solution proposed by the CSSF.

5) Timing

The CSSF issues a reasoned conclusion within 90 days. The 90-day period starts running where the CSSF receives a complete request that meets the relevant conditions. The written confirmation informs the Company and the complainant of the date at which the 90-day period begins. The 90-day period may be extended in the case of highly complex files. In this event, the CSSF informs the Company and the complainant of the approximate necessary extension as soon as possible and at the latest before the end of the 90-day period.

6) Representation and assistance

The Company and the complainant have access to the procedure without having to resort to a lawyer or a legal adviser. However, the Company and the complainant to the procedure may seek an independent opinion or be represented or assisted by a third party at all stages of the procedure.

7) End of the procedure

The procedure ends:

- i. by sending a reasoned conclusion letter or by sending a letter in which the CSSF communicates the outcome of the procedure to the Company and the complainant;
- ii. by reaching an amicable settlement between the Company and the complainant during the procedure, which the CSSF has been informed of;
- iii. in case of a written withdrawal of either the Company or the complainant, which may occur at any time during the procedure, and which must be notified to the other party and to the CSSF within a reasonable period, in writing or by way of a durable medium;
- iv. where the right on which the Complaint is based is prescribed and where the Company claims that the time period for exercising that right has expired;
- v. where the Complaint has been submitted to a Luxembourg or foreign court or arbitrator;
- vi. where the Complaint has been submitted to an out-of-court complaint resolution body other than the CSSF in Luxembourg or abroad; or

- vii. where the complainant does not provide the additional documents, information, explanations or positions requested by the CSSF within the period set by the CSSF that cannot exceed three weeks.

APPENDIX A

Indicative timeline of Complaint Handling

#	Step	Timeline (starting from step 1)
1	Receipt of Complaint by the Company	-
2	Recording of the Complaint and information of responsible the Complaints Handling Team Notification of the Complaint to the Complaint Manager of the Company	Without delay Without delay
3	Sending of written acknowledgement of receipt (indicating already if the response would take more than a month to be prepared and the reason why indicating a possible date where the examination will be achieved) OR If a Complaint relates to a service provider of the Company, forwarding to the concerned service provider and information of the complainant	Within 10 business days
4	Investigation of Complaint	5 to 10 business days. The response should in any case be sent within one month from the receipt of the Complaint.
5	Drafting of response by the Complaints Handling Team	
6	Sending of response by the Complaints Handling Team	
7	Where a response cannot be provided within one month from the receipt of the Complaint, sending of information to the complainant of the causes of the delay and when the assessment is likely to be finalised.	As soon as possible after step 3.
8	Where the complainant did not obtain a response or a satisfactory response from the Complaints Handling Team, the complainant will have the opportunity to escalate the Complaint directly to the Complaint Manager and shall be informed thereof in the initial response.	Without undue delay

9	Final response by the Complaint Manager.	Without undue delay
10	<p>Where the Complaint handling at the level of the Complaint Manager did not result in a satisfactory response for the complainant, the Complaint Manager will:</p> <ul style="list-style-type: none"> • provide the complainant with a full explanation of the Company's position as regards the Complaint; and • inform the complainant of existence of the procedure for out-of-court resolution of complaints before the CSSF in line with the CSSF Regulation 16-07 available at http://www.cssf.lu/en/consumer/complaints/ or include a copy of the CSSF Regulation 16-07 and inform the complainant of the deadline for such procedure (i.e. one year from the date the complainant has introduced the Complaint to the Company in the first place) and that this out-of-court complaint resolution is free of charge; • if the case arises, the Company confirms its decision to have recourse to the out-of-court complaint resolution procedure to resolve the dispute; • as the Company has undertaken to resort to the out-of-court complaint resolution procedure with the CSSF, it must send to the complainant a copy of the CSSF Regulation 16-07 or the reference to the CSSF website, as well as the different means to contact the CSSF to file a request, to the complainant; • include the contact details of the CSSF to file a request: <ul style="list-style-type: none"> (A) by mail (simple mailing, no registered letter required): <p style="margin-left: 40px;"><i>Commission de Surveillance du Secteur Financier</i> Département Juridique – Service JUR - CC 283, route d'Arlon L-2991 Luxembourg Phone: (+352) 26 25 1 - 1 Fax: (+352) 26 25 1 – 2601</p> (B) by filling in the form (PDF or online) available at the following address: 	Without undue delay

	<p>http://www.cssf.lu/en/consumer/complaints/</p> <p>(C) by fax sent at the following number: (+352) 26 25 1 - 2601;</p> <p>(D) by e-mail at the following address: mailto:reclamation@cssf.lu</p>	
11	<p>In case the complainant could not obtain a satisfactory response from the CSSF, the Complaint can be raised before the courts.</p>	-