

**NEW MOMENTUM CONSULTANT EAFI, S.L.**

CNMV registration N°: 184

**CUSTOMER PROTECTION REGULATION**

**SPANISH GENERAL COUNCIL OF ECONOMISTS MODEL**

# **CUSTOMER PROTECTION REGULATIONS**

## **INTRODUCTION**

Spanish Law 44/2002 of November 22, Measures to Reform the Financial System, adopts a series of measures to protect the customers of financial services, among which is the duty of financial advisory firms to have a Customer Service Department.

In developing such a regulatory provision, the Order ECO/734/2004 of March 11, regarding customer service centers and departments and customer Ombudsmen, establishes the obligation for each financial advisory firm to adopt regulations governing the activity of departments or services and, where appropriate, the figure of an Ombudsman. The aim is to thereby improve protection for financial services users, providing them with all possible channels to reach the EAFI with any complaints or claims they may have, as well as providing a rapid and secure procedure for addressing and resolving them.

In compliance with the provisions in Spanish Law 44/2002 and Order ECO/734/2004, it is the EAFI's intention is to enact these Customer Protection Regulations, thus ensuring that there is adequate protection for financial services users who enter into a contract with this company.

It is therefore intended, with these present Regulations, to regulate in a systematic and complete way the operation of the Customer Service Department, ensuring easy access for customers to the complaints system, as well as an expeditious handling and resolution of complaints or claims filed by them.

### **1. Objective**

This Regulation aims to regulate the requirements and procedures of NEW MOMENTUM CONSULTANT EAFI, S.L. Customer Service Department.

### **2. Scope**

The obligations that come under these Regulations will be in relation to the complaints and claims submitted directly or by proxy, by all natural or legal persons, Spanish or non-Spanish, who satisfy the condition of financial services user provided by the EAFI, as long as such complaints and claims refer to their legally recognized interests and rights, whether deriving from contracts, transparency rules and customer protection or good banking practices, in particular, the principle of equity.

### **3. Delegation**

The EAFI delegates to the Customer Service Department in the body of the Spanish General Council of Economists, EAF-Economists Financial Advisors.

The delegation of the Customer Service Department in the EAF-Economists Financial Advisors will end unilaterally by the decision of either party.

#### **4. Appointment, term of office, reappointment and removal**

The EAF will designate the head of the Customer Service Department, which will be a person with commercial and professional integrity, as well as with the adequate knowledge and experience to perform his or her duties.

Both the appointment of the head of the Customer Service Department and any change of appointment will be notified to the Comision Nacional del Mercado de Valores (CNMV).

The appointment of the head of the Customer Service Department in the EAF will be appointed for an indefinite term and end by the following means:

- (i) Termination of the contractual relationship between the head of the Customer Service Department and the General Council of Economists.
- (ii) Death or incapacity.
- (iii) Resignation.
- (iv) By a justified agreement by the Spanish General Council of Economists.

The head of the Customer Service Department can limit himself and delegate to another person in the EAF when circumstances exist that could undermine their impartiality and objectivity.

#### **5. Functions**

Customer Service Department functions are the following:

- a) Receive complaints or claims, filed in accordance with the terms stated in article 2 above, by EAFI customers.
- b) Deal with such complaints or claims according to the procedure laid down in these Regulations and solve them within the time and with the formalities required by it.
- c) To submit to the EAFI reports, recommendations and proposals on all aspects that fall within their competence and that they believe will support the positive relations that should exist between EAFI and their customers.

#### **6. Duty to cooperate**

The EAFI shall take all necessary measures to ensure that all departments and services of the EAFI will facilitate the Customer Service Department (EAF-CGE) with any information that the latter may request in connection with the exercise of their functions.

The provided procedures for transmitting information to the Customer Service Department from other services or departments of the EAFI will correspond with the principles of speed, security, efficiency and coordination.

## **7. Initiation of proceedings: submission of complaints or claims**

The procedure begins with the filing of the complaint or claim notice which may be made in person or by a duly accredited representation, on paper or by computer, electronic or telematics means, provided that they allow the reading, printing and retention of documents. The notice shall contain the following information:

- (i) Identification of the applicant (first name, last name, ID and address) or, where applicable, the identification of the representative (duly accrediting their representation).
- (ii) Reason for the complaint or claim, indicating the EAFI department or service from which such claim or complaint arose from and providing the evidence (particularly documents) at their disposal.
- (iii) Indication of the means by which the applicant wishes to be notified of the resolution of his/her complaint or claim. If this is not indicated, it is subject to the provisions of article 16 below.
- (iv) That to the claimant's knowledge, the matter which is the subject of the complaint or claim is not subject to administrative, arbitration or legal proceedings.
- (v) Place, date and customer signature.

The applicant must submit, in addition to the notice above, provision of documentary evidence in their possession on which the complaint or claim is based.

Customers will have the right to lodge complaints or claims to the Customer Service Department (EAF-CGE), subject to the provisions of this Regulation, through the following means:

- (a) By submitting them to the Customer Service Department (EAF of the General Council of Colleges of Economists of Spain). (See Appendix I).
- (b) Through the email address corresponding to the Customer Service Department in EAFI offices open to the public for these purposes (in this case, the relevant documentary evidence accompanying to the complaint or claim can be forwarded in this way). (See Appendix I).
- (c) In the EAFI office, where it will be sent to the Customer Service Department (EAF). (See Appendix I).
- (d) By regular mail addressed to the Customer Service Department, sending the complaint or claim to the address of EAF of the General Council of Colleges of Economists of Spain. (See Appendix I).

## **8. Deadline for submission of complaints or claims**

Customers have a period of two years to file their complaints or claims, from the date that the client became aware of the events causing the complaint or claim.

Customers must submit the complaint or claim only once, without being able to demand their reiteration to different bodies of the EAFI.

Any complaint received by the Customer Service Department after the deadline established in the previous paragraph, will not be accepted by it for processing, and this would be communicated to the customer in the way set out in article 16 below.

## **9. Deadline for the resolution of complaints or claims**

Complaints and claims received by the Customer Service Department shall be resolved by the department within a maximum period of two months, counted from the time of the reception of the written complaint or claim, together, if necessary, with the relevant documentary evidence from the Customer Service Department.

## **10. Acceptance for consideration**

Once the complaint or claim has been received by the EAFI, in the event that it is not resolved in favor of the customer by the office or service that was the object of the complaint or claim, it will be submitted to the Customer Service Department within a maximum period of five days.

The period provided for in Article 10 shall begin, in any case, from the reception of the written complaint or claim together, if necessary, with the relevant documentary evidence by the Customer Service Department, which may well be in the EAFI office or the departments of the EAF-Economists Financial Advisers of the Spanish General Council of Economists. To this end, the Customer Service Department shall acknowledge receipt in writing and record the date of the reception for the purposes of calculating the time period. If the complaint is received at the EAFI offices, they shall refer it to the Customer Service Department within a period of 5 days.

Upon receiving the complaint or claim, the Customer Service Department will proceed to open the file.

In the event that the identity of the claimant is not sufficiently established, or the facts subject to the complaint or claim cannot be established with sufficient clarity, the claimant will be requested to complete the documents submitted within ten calendar days, and shall be warned that if they fail to do so, the complaint or claim shall be filed with no further action. The period for the claimant to correct any errors or omissions referred to in the above paragraph will not be included within the term of two months established by Article 10 above.

## **11. Rejection**

It is only possible to reject the submission of complaints and claims in the following cases:

- (a) When information that is essential for processing the complaint or claim is omitted and cannot be supplied, including cases in which the reason for the complaint or claim is not properly specified.

- (b) When the claimant attempts to submit as complaints or claims, requests or acts that fall within the jurisdiction of administrative or legal bodies or arbitrators, or are pending resolution or litigation, or the matter has already been dealt with by any of those bodies.
- (c) When the facts, reasons and requests made regarding the issues which the complaint or claim is subject to do not refer to specific operations or do not meet the requirements established by Article 2 above.
- (d) In the case of complaints or claims that have already been resolved in prior claims, submitted by the same customer with regard to the same facts.
- (e) When the time period for submission of complaints and claims established by Article 9 above has elapsed.
- (f) In the event that there is knowledge of simultaneous processing of a complaint or claim and an administrative, arbitration or legal procedure on the same matter, the Customer Service Department must abstain from processing the complaint or claim.

When a complaint or claim is deemed to be unacceptable for consideration for any of the reasons indicated above, the interested party shall be sent an explanation of the decision, and will be given ten calendar days to submit any pleas. In the event that the interested party replies and the reasons for non-acceptance are upheld, they shall be notified of the final decision made.

## **12. Processing**

The Customer Service Department may request, during the processing of cases, both from the claimant and from the different departments and services of the company in question, all details, clarifications, reports or evidence they deem pertinent in order to make a decision.

The EAFI have a term of 15 days to provide the Customer Service Department all the information that has been requested and present all the arguments that it considers appropriate.

## **13. Acceptance and withdrawal**

If, in view of the complaint or claim, the EAFI rectified the situation to the satisfaction of the customer, they must notify in writing the Customer Service Department and provide documentary proof, unless it is the customer that withdraws the action, which must also be done in writing. In such cases, the complaint or claim shall be filed with no further action.

In both cases, the complaint or claim will be filed without further action.

## **14. Conclusion and notification**

The case must be closed within a maximum period of two months, from the date on which the complaint or claim was submitted to the Customer Service Department.

The decision will always be reasoned and contain clear conclusions regarding the submission made in each complaint or claim, based on the contractual clauses, transparency rules and customer protection applicable, as well as good financial practices and customs. Similarly, the decision shall

contain explicit reference to the faculty that attended to the interested party so, in case of disagreement with the result of the ruling, they can turn to the CNMV Claims service.

In the event that the decision departs from criteria used in previous similar cases, the reasons for doing so shall be provided.

The decision shall be notified to the interested parties within ten calendar days from the date by any of the means referred to in Article 16 below.

In no way will the decision of the Customer Service Department connect the EAFI to an eventual court, arbitration or administrative proceedings or prejudice any decision which may be issued in any such procedure.

## **15. Communications**

All notifications and communications referred to in these Regulations shall be made in writing or by computer, electronic or telematics means, provided that they allow for the reading, printing and retention of documents and meet the requirements established by Spanish Law 59/2003, December 19, on Electronic Signatures regarding the verification of identity and other circumstances of the person concerned.

In order to determine the most appropriate way in which to make timely notifications to the person concerned, the Customer Service Department should follow that which it has been designated explicitly in the written complaint or claim that has been made and as required by Article 8 above. If the person concerned has not designated how you want to receive the corresponding notifications, the Customer Service Department shall send those through the same means by which the applicant had submitted its written complaint or claim.

## **16. Customer Information**

The EAFI will make available to its customers, in all its offices open to the public, the following information:

- (a) The existence of the Customer Service Department, which is delegated to the body of the Spanish General Council of Economists EAF- Economists Financial Advisors, indicating their postal and email addresses. (see Appendix I)
- (b) The obligation on the part of the EAFI, to address and resolve complaints and claims submitted by its customers, within two months of being filed with the Customer Service Department.
- (c) Indication of the postal and email addresses of the Claims service of the Comision Nacional del Mercado de Valores (CNMV), the Bank of Spain, and the Directorate-General for Insurance and Pension Funds, which operate under the principle of a 'one-stop shop', and attend to complaints and claims submitted by financial services users and the need to first exhaust the process of the Customer Service Department before making complaints or claims against such entities. (see Appendix I)
- (d) The function of the present Regulations.

- (e) References to the norms of transparency rules and customer protection in financial services.

### **17. Claims Services of the Comision Nacional del Mercado de Valores (CNMV), the Bank of Spain and the Directorate-General for Insurance and Pension Funds**

Any claim may be filed at any of these three claims services, regardless of its contents, which shall immediately be forwarded to the competent and relevant claims services, which in this case, will be to the Comision Nacional del Mercado de Valores (CNMV).

The claims service will inform oversight services when there is evidence of serious or repeated breaches of the rules of transparency and customer protection or norms of good practices and financial uses by the same entity.

### **18. Annual Report**

Every year, the Customer Service Department will submit to the EAFI Board of Directors an explanatory report on the development of their role during the previous year, which should have the following minimum content:

- (a) Statistical summary of complaints and claims handled, information on their number, admission for processing and reasons for non-acceptance, causes and issues raised in the complaints and claims and any relevant amounts.
- (b) Summary of decisions adopted, indicating whether they were favorable or unfavorable to the applicant.
- (c) General criteria contained in the decisions.
- (d) Recommendations or suggestions derived from the experience in order to better achieve the objections of its function.
- (e) As a minimum, a summary of the report will be included in the EAFI annual report.

### **19. Approval and verification of the Customer Protection Regulations**

The present Customer Protection Regulations, which will apply to all EAFI delegating to the EAF-Economists Financial Advisers of the Spanish General Council of Economists, has been approved by NEW MOMENTUM CONSULTANT EAFI, S.L. administrators, on February 14h, 2017.

The Comision Nacional del Mercado de Valores (CNMV) has verified that these Regulations contain the necessary rules and conforms to the provisions of the applicable norm.

### **20. Amendment of Customer Protection Regulations**

Any amendment to these Customer Protection Regulations shall be in writing and be submitted for approval and verification provided for in Article 20 above.

## APPENDIX I

### 1. Customer Service Department Address

Consejo General de Colegios de Economistas  
Economistas Asesores Financieros  
C/ Claudio Coello 18  
28001- Madrid  
Phone: +34 914 322 670  
Fax: +34 912 976 017

Email: [eaf@economistas.org](mailto:eaf@economistas.org)

### 2. Head of the Customer Service Department

Victoria Nombela Rollón

### 3. EAFI Address

NEW MOMENTUM CONSULTANT EAFI, S.L.  
C/ General Castaños, 4, 2º Izq  
28004 – Madrid

[contact@new-momentum.com](mailto:contact@new-momentum.com)

Teléfono: +34 91 060 93 68

### 4. CNMV Claims Department

Postal address:

Comision Nacional del Mercado de Valores  
Servicio de reclamaciones  
C/ Edison 4  
28006 – Madrid

Electronic address:

[ServiciodereclamacionesCNMV@cnmv.es](mailto:ServiciodereclamacionesCNMV@cnmv.es)

### 5. Bank of Spain Claims Department

Postal address:

Banco de España  
Departamento de Conducta de Mercado y Reclamaciones  
C/ Alcalá, 48  
28014 – Madrid

Electronic address:

[https://sedeelectronica.bde.es/sede/es/menu/ciudadanos/Reclamaciones\\_2e85b7714582d21.html](https://sedeelectronica.bde.es/sede/es/menu/ciudadanos/Reclamaciones_2e85b7714582d21.html)

## **6. Directorate-General for Insurance and Pension Funds**

Postal address:

Dirección General de Seguros y Fondos de Pensiones  
Servicio de Reclamaciones de la Dirección General de Seguros y Fondos de Pensiones  
Paseo de la Castellana 44  
28046 – Madrid

Electronic address:

<http://www.dgsfp.mineco.es/>

**APPENDIX II**

**FORM FOR THE FILING OF CLAIMS AND COMPLAINTS OF THE**

**1.- DATOS DEL RECLAMANTE**

SURNAME 1	SURNAME 2	NAME OR CORPORATE NAME				ID CARD/NIF (or CIF)	
Street		nº	Floor	City	District	ZIP CODE	COUNTRY
Phone		EMAIL					

**1 bis.- OTHER CO-HOLDERS DATA (if needed)**

SURNAME 1	SURNAME 2	NAME OR CORPORATE NAME				ID CARD/NIF or CIF	
Street		nº	Floor	City	District	ZIP CODE	COUNTRY
Phone		EMAIL					

  

SURNAME 1	SURNAME 2	NAME OR CORPORATE NAME				ID CARD/NIF or CIF	
Street		nº	Floor	City	District	ZIP CODE	COUNTRY
Phone		EMAIL					

  

SURNAME 1	SURNAME 2	NAME OR CORPORATE NAME				ID CARD/NIF or CIF	
Street		nº	Floor	City	District	ZIP CODE	COUNTRY
Phone		EMAIL					

**2.- REPRESENTATIVE'S DATA (if needed) (the representation must be proven)**

SURNAME 1	SURNAME 2	NAME OR CORPORATE NAME				ID CARD/NIF or CIF	
Street		nº	Floor	City	District	ZIP CODE	COUNTRY
Phone		EMAIL					

**3.-ADDRESS FOR THE NOTIFICATIONS (only if it is different from the claimant's)**

SURNAME 1	SURNAME 2	NAME OR CORPORATE NAME				ID CARD/NIF or CIF	
Street		nº	Floor	City	District	ZIP CODE	COUNTRY
Phone		EMAIL					

**4.- CLAIMED ENTITY'S DATA**

CORPORATE NAME							
Nº OF THE OFFICE OR SUBSIDIARY:							
Street		nº	Floor	City	District	ZIP CODE	

**5.- REASON OF THE CLAIM/COMPLAINT: INVESTMENT ADVISORY**

**A.- THE CLAIM/COMPLAINT IS ABOUT:**

NAME OF THE PRODUCT	ISIN	DESCRIPTION

**CAUSES**

ADVISORY	COMMISSION	OTHERS

**B. Elaborate the reason: (give documentation that justify the pointed facts)**

**C. YEAR/DATA when the claimed facts happened:**

**D. Point if the claim reason is not pending resolution or litigation before administrative, arbitral or jurisdictional bodies.**

In ....., on the ....., 20 ...

**SIGN**

**CLAIMANT/REPRESENTATIVE**

**DOCUMENTATION PROVIDED**

- Accreditation of the representation**
- Copy of the contracts of the claimed operation**
- Other supporting documents for the claim:**
- .....
- .....
- .....
- .....

**SEND TO : CONSEJO GENERAL DE ECONOMISTAS**  
**Economistas Asesores Financieros EAF-CGE**  
**Dpto. Atención al Cliente**  
**Calle Nicasio Gallego, 8**  
**28010 MADRID**

According to the Spanish Law 15/1999 of Personal Data Protection, we inform you that your identification data are going to be incorporated into an automated file in order to manage the processing of the claim. If you wish, you can exercise your rights of access, modification, cancellation and opposition in order to do that you can contact l Consejo General de Economistas, c/ Nicasio Gallego, 8 28010 Madrid. The Claim Service will maintain the information of the files processed for 6 years

