



FINANCIAL REGULATOR
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Re: Themed Inspection – Complaints Handling by Credit Institutions

Dear «Greeting»

Earlier this year we carried out a themed inspection, through both on and off-site work, of a number of credit institutions ('institutions') in relation to the following areas:

- 1) Assessing compliance with Common Rules 46 – 48 inclusive of the Consumer Protection Code; and
- 2) As part of the process carried out at 1 above:
 - a) Assessing how institutions are using complaints as management information; and
 - b) Gaining an insight into the type and subject matter of complaints received by institutions.

The purpose of this letter is to provide the industry with some general feedback in relation to the findings from this themed inspection and we would ask that you consider the issues raised. In general we found that institutions have procedures in place for logging and handling complaints, and have procedures and controls to comply with the Code requirements. While noting these positive findings, we would encourage institutions to deal proactively with complaints, to ensure that systemic issues are dealt with using

controls and procedures as appropriate, and to closely monitor the volume of complaints as part of their consumer protection framework.

In 2005 we wrote to you to provide some general feedback on a series of consumer focussed Head Office and Branch inspections carried out in 2004. At that time we highlighted that in some institutions complaints procedures were not comprehensive, intelligence gained from complaints did not feed in a planned way into senior management reports and consideration was not always given to the possibility of individual complaints being indicative of systemic issues. It is encouraging to note that credit institutions have taken steps to implement comprehensive complaint handling procedures that incorporate reporting to senior management and allow for analysis of complaints received to identify possible systemic issues.

Complaint handling is fundamental to the whole area of consumer protection. As you may be aware, the Financial Regulator has completed a Financial Capability Study¹, the full results of which are due to be published in December 2008. This study found that one in ten consumers felt they had a reason to complain to their financial service providers. Of those, 92% made a complaint to their provider and of those, 53.6% felt that their complaint was resolved satisfactorily. The research also indicated that 27% of consumers have no idea how to complain about a financial product or service, while only 46% have a good idea how to go about making such a complaint. While most institutions had leaflets available in branches, which detailed their complaints handling processes, this research clearly indicates that customers are not sufficiently aware of their financial institution's complaints handling process. Institutions should not wait for customers to complain before providing information on the process, but should actively inform its customers of its complaints process, as a matter of course.

We would like to highlight the following issues identified:

1. Right to Refer the Complaint to the FSO

¹ The Financial Capability Study involved face-to-face surveys conducted by an independent research company, among a nationally representative sample of just over 1,500 people.

Common Rule 46(e) of the Code requires that each time a complaint is resolved, the complainant must be advised in writing of the outcome of the institution's investigation, and this letter must inform them of their right to refer the matter to the FSO and include the FSO's contact details. Under Common Rule 46(d) of the Code, when a complaint is outstanding for more than 40 days, the complainant must be provided with a written update, which must inform the complainant of their right to refer the matter to the FSO and include the FSO's contact details.

Some institutions did not inform the complainant of their right to refer the matter to the FSO, or provide the FSO's contact details in the main body of the letter, but instead supplied information relating to the FSO in a separate leaflet. In order to evidence compliance with these requirements, this information should be included in the main body of the letter. Where an institution depends on an extra document, it cannot be proven that this document was in fact enclosed in the complainant's letter.

Some institutions did not inform the complainant of their right to refer the matter to the FSO, or provide the FSO's contact details in the letters they sent because, in their opinion, the FSO would not investigate the matter if the complaint was resolved satisfactorily. An institution must not make assumptions on a course of action that will or will not be taken by the FSO. The Code states that the institution must inform the customer of their right. The customer always has that right to refer the matter to the FSO. By informing the customer of this right, the institution is not telling the customer that the matter will be investigated, they are simply informing the customer that they can take the complaint to the FSO if they so wish.

Each institution must ensure that the customer is informed of their right to refer the matter to the FSO, and provided with the contact details of the FSO as part of the 40-day letter and as part of the final letter. The customer must be expressly informed of this right, which must be included in the main body of the relevant letter, as part of the institution's response to their complaint.

2. Comprehensive Record

Common Rule 48 of the Code requires that where complaints are not resolved within 5 business days, the action taken to resolve each complaint must be recorded. Common Rule 46 requires that where the complaint has been resolved within 5 business days, a record must be maintained of the fact that the complaint was resolved within this timeframe, to the satisfaction of the complainant. Institutions must ensure that a comprehensive record of each complaint subject to the complaints procedure is maintained. This record must contain the details of the action taken by the institution to resolve the complaint.

Some of the institutions inspected were not in a position, during the course of the inspection, to evidence their compliance with these requirements in respect of some of the complaint files reviewed. While the complaint had been resolved, the details of the resolution were not always recorded. Documentation and evidence was however subsequently provided to the Financial Regulator. In some institutions, documentation relating to individual complaints could be stored in multiple locations, for example, at branch level and at customer services level.

In order to demonstrate compliance with these requirements in the Code, institutions should be able to show how the complaint was resolved for the customer. Clear and comprehensive records must be maintained of how each complaint is resolved. Institutions should be able to produce all documentation relevant to a complaint within a reasonable timeframe. Institutions may need to consider the storage of resolved complaints and should perhaps give consideration to storing all documentation relating to a single complaint in a single location, in order that it can be readily accessed, if necessary.

3. Verbal Complaints

Common Rule 47 of the Code requires institutions to offer the customer the opportunity to have their verbal complaint treated as a written complaint. In some of the institutions inspected, complainants were not actively offered this opportunity. Where verbal complaints were not resolved within 5 days, they were not always acknowledged in writing.

When a customer makes a verbal complaint, they must be offered the opportunity to have this complaint treated as a written one. There is no onus on the customer to seek to have their verbal complaint treated as written. The onus is on the institution to expressly offer this choice to the customer. Verbal complaints must be acknowledged in writing where they are not resolved within 5 days.

4. Resolution

Common Rule 46(e) requires institutions to notify complainants in writing of the outcome of their investigations into the complaint. In certain cases customers were notified verbally of the outcome and given the option of having the details confirmed in writing.

Institutions must inform complainants in writing that the complaint has been resolved, including the details of such a resolution.

5. Management Information ('MI')

The standard of MI varied greatly across the industry, and in most cases, reflected the culture of the institution. All institutions have processes in place for gathering information from complaints, circulating this information throughout their organisation and, in most cases, responding to this information. From our review of the MI used by institutions, and with due regard to the different volumes of complaints received by each institutions, we would consider that effective MI should, at a minimum, identify volumes, highlight volume increases and decreases, identify trends in complaints, outline compliance with Code requirements and identify any possible potential breaches of the Code. We would

encourage institutions to recognise the importance of using information from complaints in order to improve customer services and inform procedures and controls.

We would ask all institutions, including those institutions not visited as part of this themed inspection, to consider whether any of the issues set out above are relevant to their institution and, if so, to consider the findings when reviewing and developing their systems and controls. We appreciate that not all of the issues outlined in this letter may be applicable to your institution. Nonetheless, we hope that you find the information useful as you monitor and review your institution's compliance with the Code. Should you have any queries in relation to any of the above, please contact Mary McEvoy on 4104839 or Lara Lenehan on 4104019.

Yours sincerely

Colette Drinan
Deputy Head of Consumer Protection Codes