



Regulatory requirements for complaint handling and redress from the Hong Kong Monetary Authority

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Introduction

On 6 January 2023, the Hong Kong Monetary Authority (“HKMA”) published an updated Supervisory Policy Manual (“SPM”) module IC-4 on “Complaints Handling and Redress” (the “Module”) as a statutory guideline which sets out the minimum standards that Authorized Institutions (“AIs”) are expected to comply with to satisfy the requirements of the Banking Ordinance as well as to cater for industry good practices and international standards.

In this updated Module, the HKMA sets out its requirements on complaint handling for AIs, and expects them to have parallel processes for handling and resolving customer complaints and following up on issues of concerns or control deficiencies as identified during the handling of complaints.

All AIs are required to implement this updated Module no later than 5 April 2023. This publication provides an overview of the new regulatory requirements stated in the Module, and outlines how our financial advisory service offerings can assist you in complying with these rules.

Key takeaways

1. Scope of coverage

This Module applies to both oral and written complaints, which are lodged against an AI and/or its staff, by or on behalf of a customer and complaints referred by the HKMA, about an AI's provision of, or failure to provide, services or products in business areas including but not limited to banking, securities, futures, insurance and mandatory provident fund.

2. General principles

AI's complaints handling and redress mechanisms should be established based on the following principles:

- comprehensive in their coverage;
- transparent, accessible and affordable to customers;
- fair and impartial for all parties concerned;
- timely and efficient, with appropriate and measurable service pledge or performance standards;
- able to communicate with the complainants in an effective and pragmatic manner;
- able to improve the AI's accountability and transparency;
- consistent approaches for the provision of redress; and
- able to reflect customer feedback, issues of concerns and/or emerging risks to the senior management and/or board of directors of AIs for appropriate follow-up, as well as reporting.

3. Key requirements on effective complaints and redress mechanisms

A. Policies and procedures

- AIs should establish appropriate and effective policies and procedures in place, covering the following:
 - > acknowledging receipt of complaints;
 - > appropriate follow-up, including possible investigation, of allegations or concerns raised by the complainant;
 - > responding to complainants on all allegations or concerns raised;
 - > availability of any redress or compensation in appropriate circumstances;
 - > appropriate integration of the complaint handling and redress mechanisms with the AI's business operations as well as other risk management and control systems; and
 - > proper written record of the correspondence and processes be kept;
- Where there are complaints concerning the services and/or products provided by AIs' business partners or service providers, AIs should have appropriate arrangements with these parties and inform customers of such arrangements to ensure that complaints are properly dealt with; and
- Anonymous complaints and whistleblowing reports should be handled with appropriate steps and any issues alleged by the complainant and substantiated after investigation should be rectified as soon as practicable.

B. Accessibility

- AIs are expected to make information about their complaints handling processes available to the public via a variety of channels, without setting up any barrier to the public for lodging complaints;
- AIs are also expected to provide vulnerable complainants special assistance; and
- AIs' correspondence relating to complaints should be in clear and plain language, and understandable to complainants.

Key takeaways

C. Confidentiality

- AIs should design procedures to protect the identity of complainants and at all times comply with the Personal Data (Privacy) Ordinance (PDPO) and any relevant codes of practice issued or approved by the Privacy Commissioner for Personal Data (PCPD) giving practical guidance on compliance with the PDPO; and
- AIs should also treat information in relation to a complaint as confidential and authorize responsible staff to process the information strictly on a need-to-know basis.

D. Objectivity and authority in handling complaints

- The staff members designated by AIs to investigate into allegations or concerns raised by complaints should be competent and be those who were not directly involved in the matter which is the subject of the complaints;
- The staff members who respond to complaints should be given the authority to settle the complaints including offering redress where appropriate, or access to those who have the necessary authority; and
- AIs are expected to have review mechanism in place to assess the appropriateness and fairness of the handling of a complaint.

E. Follow-up including investigation of complaints

- AIs are expected to make enquiry to clarify the allegations or concerns as necessary and ensure the findings and result of the handling of a complaint are supported by objective evidence as far as practicable; and
- The complaints handling staff are expected to adopt an impartial approach to both the complainant and the subject of complaint and keep themselves abreast of latest regulatory requirements and be capable of identifying possible regulatory breach and misconduct during the follow-up including investigation process.

F. Redress

- AIs should aim to provide the complainant with a fair compensation, whether or not it involves a financial element, for any act or omission for which it should be responsible; and
- Mediation and/or arbitration service as an independent redress process should be considered in case a settlement cannot be reached on the financial redress bilaterally with the complainant.

G. Response to complainant and review mechanism

- AIs' response to complaint are expected to include whether they-
 - > accepts the matters complained (and offers redress where appropriate); or
 - > offers redress without accepting the matters complained; or
 - > rejects the matters complained and gives reasons for doing so;
- Further enquiries and/or dissatisfaction about the complaint handling result should be reviewed based on new objective information and further response to the complainant should be provided within reasonable time.

H. Reporting of potential breaches

- Escalation to senior management and self-reporting to the HKMA and other regulators regarding possible regulatory breach and/or misconduct should be made as soon as reasonably practicable.

Key takeaways

I. Resources and staff training

- AIs are expected to ensure that sufficient resources are allocated to maintain efficiency and effectiveness of complaints handling and redress mechanisms and that all employees, especially public-facing staff, act in accordance to the complaints handling procedures.

J. Management oversight and audit

- AIs are expected to implement or otherwise integrate an appropriate control system for monitoring complaints trend and customer satisfaction level; and
- Senior management of AIs are also expected to have regular audits conducted by competent and independent parties, targeting the complaints handling and redress mechanisms and the operations of the procedures.

4. Other requirements

A. Timeframe for complaints handling

- AIs are expected to acknowledge a complaint and respond to a complainant within the following timeframes.
 - > **Acknowledgement:** AIs are expected to acknowledge a complaint within 7 calendar days of its receipt, giving the name or job title and contact details of the staff responsible for handling the complaint, as well as details of the complaints handling procedures.
 - > **Response to complainant:** AIs are expected to provide a full response or an interim response within 30 calendar days after receiving a complaint. An interim response should give reasons for the delay and an indicative timeframe (normally not exceeding 60 calendar days) for a full response.

B. Record keeping

- AIs are expected to record and retain details of complaints, including anonymous complaints, for at least 2 years from the date of their receipt. Details to be recorded include complainant's name, substance of the complaint, results of the complaint handling etc; and
- AIs should maintain their records in a convenient and accessible form for the inspection of the HKMA during regular or ad-hoc examinations and reviews.

C. Cooperation with regulators

- AIs are expected to provide the HKMA with the details of major contact point(s) within the AI responsible for complaints handling and redress;
- For complaints referred by the HKMA, AIs are expected to fully follow up, investigate and reply in writing, addressing the allegations or concerns raised by the complaint; and
- For complaints referred by other organisations, AIs are expected to make available the relevant correspondence and documents to such referring parties, as well as explaining their internal policies and procedures governing the subject matter of the complaint, actions taken to resolve the complaint and any offer of redress.



How can Mazars help?

At Mazars, we have extensive experience working with the diversity of financial services players. We assist major financial institutions including brokerage houses, asset managers, investment and corporate banks, retail and private banks, central banks, insurance companies and regulators in dealing with business and regulatory issues with impacts, domestic and international.

Mazars is here to assist you in complying with the regulatory standards and requirements for your complaint handling and redress mechanisms. Depending on the scope, coverage and specifics of your needs, our services would typically involve one or more of the following:

How can Mazars help?

A. Regulatory reviews and advice

- I. Review and provide compliance advisory on your firm's
 - policies and procedures;
 - processes and controls; and/or
 - governance and supervision.
- II. Provide observations and recommendations to assist you in complying with the regulatory requirements and expectations, as well as common industry practice.
- III. Provide pre-inspection advice or review.
- IV. Perform compliance review on the effectiveness of your complaint handling and redress mechanism.

B. Design and implementation of policies and procedures

- I. Provide advice on designing and implementing enhancements to the complaints handling policies, including governance framework, as well as your complaint investigation procedures, fair treatment to customers, etc.
- II. Provide advice on designing and implementing policies to maintain sufficient resources and effective systems and controls to ensure that you can discharge your obligations and responsibilities.
- III. Provide advice on designing and implementing policies to fulfil regulatory requirements.

C. Training and insights

- I. Provide training and education for staff, the board and senior management on the legal and regulatory framework (in particular the Module) on the new regulatory requirements and obligations.
- II. Provide ongoing insights into how peer firms are dealing with the regulatory requirements and any common challenges encountered along the way.

We also take on special projects and ad-hoc mandates. We are flexible in our approach and offerings. Please feel free to contact us with any enquiries.

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