

## Expected regulatory standards and suggested techniques and procedures for handling client complaints

### A. Management oversight and complaint handling policies and procedures

#### Expected regulatory standards

1. LCs should put in place sufficient management supervision of their complaint handling function<sup>1</sup>. An MIC should be designated to oversee the setup and implementation of complaint handling policies and procedures as well as the ongoing monitoring of the complaint handling process. LCs with a large retail client base should also put in place dedicated resources to handle client complaints.
2. LCs should ensure that the complaint handling function is performed by appropriately qualified staff<sup>2</sup>. Where possible, complaints should be investigated by staff performing the compliance function who are not directly involved in the subject matter of the complaint<sup>3</sup>.
3. LCs should establish and set out complaint handling policies and procedures in writing to ensure that client complaints are handled in a timely and appropriate manner, and that appropriate remedial action is taken promptly<sup>4</sup>.
4. To ensure complaints are handled in a timely manner, LCs should set out expected timeframes for processing complaints, which include timelines for:
  - a) acknowledging the complaint upon receipt;
  - b) responding to the complainant's enquiries in relation to the complaint; and
  - c) providing a final response to the complainant.

While the time needed for processing may vary depending on the nature of the complaint, an acknowledgement of a complaint should be issued within seven days of the day of receipt and a final response issued within two months<sup>5</sup>.

5. LCs should ensure that their complaint handling policies and procedures are clearly communicated to all relevant staff<sup>6</sup> and are strictly enforced.
6. Relevant staff should be provided with adequate training<sup>7</sup> on complaint handling policies and procedures.

<sup>1</sup> Part I of the Internal Control Guidelines

<sup>2</sup> Paragraph 4.1 of the Code of Conduct

<sup>3</sup> Part V(5) of the Internal Control Guidelines

<sup>4</sup> Part V(5) of the internal Control Guidelines

<sup>5</sup> A licensed person which engages in leveraged foreign exchange trading is required, according to paragraph 48 of schedule 6 of the Code of Conduct, to inform clients of the result of any complaint made by them as soon as practicable and in any event within three business days of determining the result.

<sup>6</sup> Part III(2) of the Internal Control Guidelines

<sup>7</sup> Part III(3) of the Internal Control Guidelines

### Suggested techniques and procedures

7. Senior management oversight is put in place to decide appropriate complaint handling policies and procedures for the firm and update them regularly, having regard to the products and services the firm provides, its clientele and the size of its business operations. The firm appoints an MIC, such as the MIC of Compliance, to oversee its complaint handling function.
8. If a firm has a large retail client base, it has dedicated resources to ensure proper governance over complaint handling. For example, it sets up a complaint committee which consists of responsible officers, MICs and the head of compliance. The committee meets regularly to review the status of complaints and discuss cases to facilitate the detection of potential systemic issues, misconduct and regulatory breaches.
9. The firm ensures that complaints are investigated by appropriately qualified staff. Where possible, complaints are investigated by compliance staff who are not directly involved in the subject matter of the complaints to avoid potential conflicts of interest.
10. The firm sets out its complaint handling policies and procedures in writing. At a minimum, these cover the areas discussed in this circular. The policies and procedures are reviewed regularly and updated whenever there is a material change in the firm's business model or organisational structure.
11. The firm regularly monitors the status of complaints. Regular reports are made to the senior management so that they are continually apprised in a timely manner of the status and any issues which may emerge in the process.
12. The firm ensures that business functions promptly implement remedial measures identified from the investigation of each complaint to prevent the recurrence of similar issues.
13. The firm provides regular training to staff about its complaint handling policies and procedures to ensure they are aware of how to identify, follow up and report complaints properly.

### Good practices

14. *To facilitate the monitoring of complaints, some LCs prepared regular analysis for senior management's review of information including the types of complaints received, adherence to timelines, investigation results and remedial measures identified from investigations and the implementation status thereof. The analysis not only helped the LCs identify emerging risks, systemic issues and internal control loopholes which they should address, but also helped them improve their standards of service.*

## B. Disclosure of complaint handling procedures

### Expected regulatory standards

1. LCs should disclose to clients key information about their complaint handling procedures<sup>8</sup> including the expected timeframes for acknowledging receipt and sending a final response. The information should be presented in clear, understandable language which allows clients to understand the process.

### Suggested techniques and procedures

2. At a minimum, the firm discloses to clients key information about:
  - a) how to lodge a complaint to the firm through different channels (eg, email, telephone, letter, complaint form on website, in-person); and
  - b) the expected timeframe for processing a complaint under normal circumstances.
3. This information is provided to clients in an effective manner, which includes but is not limited to posting information at a prominent place on the firm's website and mobile application, distributing leaflets, providing information during account opening and upon receipt of a complaint.

## C. Identification and escalation of complaints

### Expected regulatory standards

1. LCs should properly identify complaints by differentiating them from general enquiries or expressions of opinion and handle complaints in a timely and appropriate manner<sup>9</sup>, regardless of whether the staff involved have left the firm or the firm is no longer engaged in the activity related to the complaint.
2. LCs' staff should escalate internally to senior management any serious and high-impact cases for prompt handling and investigation, and report to the SFC without delay suspected breaches of the Code of Conduct and other regulatory requirements<sup>10</sup>.

### Suggested techniques and procedures

3. The firm provides guidelines to staff about the key factors which should be considered in deciding whether an issue, problem, disappointment or negative feedback raised by clients should be treated as a complaint, enquiry or opinion and the corresponding handling procedures.

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<sup>8</sup> General Principle 5 of the Code of Conduct

<sup>9</sup> Paragraph 12.3(a) of the Code of Conduct

<sup>10</sup> Paragraph 12.5(a) of the Code of Conduct

4. In case of uncertainty about whether a case should be treated as a complaint, staff will consult their supervisors or senior management, or confirm directly with the client.
5. Upon receipt of a complaint, the firm classifies it according to its seriousness and potential impact on the firm and its clients, and handles it in accordance with the established procedures. Serious and high-impact complaints are promptly escalated to senior management, handled with high priority and reported to the SFC. For the avoidance of doubt, reporting to the SFC may not be required if the complaint involves disputes with clients about the level and quality of services, the fees and charges which have been disclosed to clients, liquidation of clients' positions due to insufficient margin and matters which are outside the SFC's jurisdiction.
6. Examples of complaints which are generally regarded as serious and high-impact and should be reported promptly to the SFC include:
  - a) complaints involving fraud, such as misappropriation of client assets;
  - b) complaints indicating staff misconduct, such as unauthorised trading and mis-selling of investment products;
  - c) complaints against prolonged malfunctions of the firm's trading system;
  - d) mass complaints in which multiple clients complain about the same or a similar issue;
  - e) complaints involving significant financial losses by clients or indicating that clients' interests are seriously jeopardised; and
  - f) complaints which may cause significant financial, operational and reputational risks to the firm.
7. The firm takes steps to ensure that the staff responsible for investigating complaints have the relevant knowledge and expertise to identify any non-compliance with regulatory requirements and their internal policies and procedures and that they report to senior management in a timely manner. Mechanisms are also set up to report any suspected breach of, or non-compliance with, regulatory requirements to the SFC and other regulators as soon as practicable when they are identified, and not after the firm has completed its investigation or taken remedial action.

Good practices

8. *Some LCs regularly sample-checked the tape recordings of telephone conversations between clients and their customer service staff, or regularly reviewed their logs of client enquiries, to detect if there were any unidentified complaints.*
9. *Some LCs received complaints about trading activities in client accounts which may have been hacked. The LCs immediately reported the cases to the SFC and afterwards provided the SFC with the detailed findings of their investigation and proposed remedial actions.*

## D. Investigating complaints

### Expected regulatory standards

1. LCs should properly review the subject matter of each complaint. If a complaint also relates to other clients, or raises issues of broader concern, LCs should investigate and remedy the issues, notwithstanding that the other clients may not have filed complaints with the LCs<sup>11</sup>.
2. LCs should draw up guidelines on when and how a complaint can be closed<sup>12</sup>. They should also ensure resolutions offered to complainants are appropriate, consistent and fair.
3. When the SFC enquires about a complaint lodged to the SFC against an LC, the LC should be able to demonstrate to the SFC, such as by presenting relevant documents and records, that it has handled the complaint in a timely and appropriate manner.

### Suggested techniques and procedures

4. The firm takes steps to ensure that a complaint is investigated and assessed thoroughly, fairly and objectively, taking into account all relevant information relating to the client, the product or service in question, the subject matter and whether there are similarities with other complaints. Where the firm identifies any recurring or systemic problems, it investigates to identify the root cause and rectify the problem accordingly.
5. The firm lays down guidelines for the circumstances under which a complaint can be closed and the related approval procedures. The guidelines also include approval procedures for different types of resolutions, which may include financial redress, explanations or apologies, or service improvements. The guidelines are applied consistently to ensure that complainants and affected clients are treated fairly.

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<sup>11</sup> Paragraph 12.3(d) of the Code of Conduct

<sup>12</sup> Paragraph 12.3(a) of the Code of Conduct

## E. Communicating outcomes to clients

### Expected regulatory standards

1. LCs should communicate their investigation results to complainants clearly and promptly<sup>13</sup>.
2. Where a complaint is not remedied promptly, LCs should advise the client of any further steps which may be available to the client under the regulatory system, including the right to refer a dispute to the Financial Dispute Resolution Centre (FDRC)<sup>14</sup>.

### Suggested techniques and procedures

3. After concluding the investigation of a complaint, the firm promptly responds to the client, clearly setting out the outcome (eg, whether it accepted or rejected the complaint, any redress or compensation offered to the client), together with an explanation of the firm's decision.
4. Procedures are set up to ensure that clients are informed of their right to refer complaints to the FDRC if they are not satisfied with the outcome of the firm's investigation. This information may be provided in the firm's reply to the complainant. Alternatively, the firm may disclose it on its website and mobile application as part of the disclosure of its complaint handling procedures to clients.

### Good practices

5. *Some LCs provided clients an opportunity to be heard after informing them of the results of the complaint investigation. The LCs would consider additional representations or information subsequently provided by the client before formally closing the complaint in their records.*

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<sup>13</sup> Paragraph 12.3(b) of the Code of Conduct

<sup>14</sup> Paragraph 12.3(c) of the Code of Conduct

## F. Record keeping

### Expected regulatory standards

1. LCs should keep proper records of all complaints. Details of follow-up actions should be kept for complaints related to client assets. Generally, complaint records will not be complete without details of the substance of each complaint and how it was resolved.
2. LCs should establish and maintain effective record retention policies to ensure that records of complaints are available for the SFC to carry out routine and ad hoc reviews or investigations<sup>15</sup>. A register of complaints should be made available to the SFC upon request.

### Suggested techniques and procedures

3. The firm keeps a register to record key information about all complaints received to facilitate its monitoring as mentioned in paragraph A.11. The register is reviewed by senior management on a regular basis and is made available to the SFC upon request.
4. The firm adopts a pragmatic approach when deciding which details are to be kept for each complaint, having regard to the costs and benefits of using client complaint records as a supervisory tool as well as the need to ensure that a sufficient record is available to demonstrate compliance with regulatory requirements and for future reference.

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<sup>15</sup> Part IV(6) of the Internal Control Guidelines