

CONSOLIDATED COMMENTS FOR FCPA PROPOSED COMPLAINTS HANDLING REGULATIONS

Page Number	Recommendation per policy paper	Comment received	FSA response
5	The FCPA will cover all FSPs, including banks and non-bank financial institutions, credit unions, mutual funds and hedge funds, securities dealers, insurers, investment service providers, existing Payment Service Providers (PSPs), and potential PSPs licensed under the National Payment System Act (NPSA), and all other supervised entities that fall under the purview of the FSA as provided for under the FCPA.	It is noted that these FSPs are considered non-bank financial institutions. Therefore, we propose deleting this sentence or rephrase it to “non-bank financial institutions such as....”.	Ok propose to reword as the FCPA does not cover all non-bank financial service providers under its purview but only those listed under the Schedule of the FCPA. Propose to reword as follows: “The FCPA will cover all FSPs, including banks and non-bank financial institutions as provided under the Schedule of the Act”.
6	The FSA’s Complaint Handling Guidelines, which is not a statutory document, will be revised once and Regulations come into force, to be aligned with the Regulations and where applicable might provide guidance on sector specific issues, not inconsistent with the Act or regulations.	We take note of this and request clarification on the estimated timeframe for the review of the Complaint Handling Guidelines once the Regulations come into force.	The timeframe will depend on when the Regulations comes into force. Therefore, the Authority shall advise as soon as the Regulation is enacted.
10	Where an FSP with 30 staff or more are required to have a complaints handling unit. For FSPs with less than 30 staff, they may appoint a complaints staff.	1. Consideration here should also be given to the size of the FSP's customer base, the volume of transactions being processed and the complexity of products to assess whether the FSP is under resourced or not and should be putting attention also to complaint's handling. For entities who are part of a Group or other types of FSPs,	We agree that consideration should be in relation to the size and nature of business, volume of client base and transactions rather than the number of staff within an FSP under the purview of the FSA. Considering, the relevance to the industry whereby an entity may be small in number of staff but has a large client base and a large volume of client transactions.

		<p>outsourcing of complaints handling should also be allowed in particular where dedicated teams with specialisms exist. This should be done through signed agreements and appropriate monitoring and reporting to the FSP.</p> <p>2. Would this be applicable for brokers as well. Given the size of their business we foresee this would a challenge. In the current landscape there is a Brokerage Director also acts as the CO. Thus, would this added role not be considered too overbearing or conflicting?</p>	The Authority may need to issue guidance in that respect
13	It is recommended that the Regulations make it mandatory for all FSPs to have in place appropriate and effective written internal procedures for the handling of complaints and that the CA to review and propose recommendations to these procedures/policies.	For the avoidance of doubt, when a review will be conducted by the CA, please advise whether there will be a defined timeframe for the review to be undertaken and proposed recommendations sent to FSPs.	There shall be a timeframe specified through guidance issued by the Authority
14	FSPs should have a mechanism in place e.g. a form or mechanism whereby the employee may declare the conflict of interest	Will the CA have the same mechanism since FSPs are unable to appeal the complaint decisions of the CA?	Yes, at least at the level of the FSA as part of the GIFCs requirements, FSA has come up with a conflict of interest policy
15	FSPs should make available toll-free telephone numbers, free-response SMS texting, or free data for apps to further encourage access for customers to make a complaint	Noted but currently not feasible since costs are high.	Agree that this is not relevant to the non-bank financial services sector. Therefore, agree to remove.
16	The Regulations should also mandate that certain FSPs with 30 staff or more, or as may be determined by the CAs, should have a dedicated number and email address for lodging of complaints available.	Due to record keeping concerns, we note that lodging complaints via telephone may not be a reasonable medium unless there is a requirement for the telephone calls to be recorded.	The intention is that where a complaint is made by telephone, there should be a written submission which is of a more durable medium that follows in order to substantiate the complaint.

			Therefore, it is being proposed that all complaints should be written or as specified above at least followed with a written complaint following a phone call
16	For smaller FSPs with 30 staff or less, it is recommended that they have a dedicated email address for complaints, however they are not required to set up a telephone line only for complaints.	Does this mean that smaller FSPs with 30 staff or less will still be required to have a telephone as a medium for financial consumers to lodge a complaint, except that there will be no requirement to set up a direct telephone line?	The intention is that the main telephone line can be used to ask to speak to someone to lodge a complaint. A separate line is not required. For those with over 30 staff, a separate line is required.
16	FSPs do not impose unreasonable and burdensome formal requirements that effectively limit access to complaints handling	How do we substantiate a complaint by word of mouth?do we not need further proof of any wrongdoing?	The intention is to follow up the complaint with the submission of a more durable medium
18	It is recommended that the two working day deadline to acknowledge a complaint in writing is maintained, and that as part of the acknowledgement, complainants should be advised on the timeframe for receiving a response	<p>We propose defining/providing a threshold on what is considered a small and large customer base.</p> <p>Further consideration/flexibility should also be given to deadlines for acknowledging complaints due to the varying size, complexity and nature of business of FSPs. We propose either:</p> <ul style="list-style-type: none"> - Extending the two-day deadline to within five working days; or - Setting different deadlines for FSPs with a small customer base and FSPs with a large customer base (also taking into consideration above factors such as size and nature of business). We propose FSPs with a small customer base be required to acknowledge complaints within two working days and 	To ensure effective communication to the customer it is being proposed that the 2 working day deadline be maintained. In principle, it should only be an acknowledgement, which the FSPs should have a template prepared.

		FSPs with a large customer base be required to acknowledge complaints within five working days	
20	The Regulations should provide FSPs with 21 days to provide a response to the complainants related to the domestic market and 30 days for complaints related to the international market	<p>Would this be irrespective of the size, customer base, complexity and nature of business of all FSPs? We are of the view that further consideration should be given to these factors in such recommendations.</p> <p>We propose a deadline of within 3 months to provide a response to a complaint.</p>	We are of the opinion that 3 months is too long. Therefore, to maintain the proposed timeframe. However, propose to insert a provision, which would allow an FSP to inform the customer in writing when the deadline will not be met and why, as is the case for complex cases if the FSP can show that the delay was justifiable.
20-21	For complex cases, FSPs should inform customers in writing where they will not be able to meet the deadline, and that the resolution period will need to be extended. The timeframe by when complainants can expect to receive a response should be communicated to them.	We propose defining/providing further guidance on what is considered complex cases	We are of the view that there is no need to define the term “complex cases” as this would be subjective.
23	After a complaint has been assessed, responses by FSPs to the complainants should also clearly inform complainants of their rights and how they can further pursue the matter should they be dissatisfied with the resolution provided by the FSP.	Please provide the Complaints information for the CA to be included in the communication.	Agreed
25	It is recommended that FSPs should retain records for each complaint for a period of at least 7 years	<p>Ref made to section 11(1) of the FCPA - FSPs shall maintain physical records</p> <p>In view of modernisation of the financial services sector and the high cost of maintaining physical records, it is recommended that FSPs are also given the option to maintain digital records of</p>	Section 11(2) makes provision to specify record retention in digital form to be prescribed by Regulations

		complaints and transactions related to the complaints	
25	It is recommended that the Regulations require FSPs to submit complaint related information within 24 hours of receiving a request from the CA through digital means.	Note: In cases where the complainant went directly to the CA and did not file a complaint with the FP, this cannot be provided. These instances can be communicated to the CA following request	The Regulations will require proof that the complainant has exhausted all avenues at the level of the FSPs before coming to the CA to lodge a complaint
27	It is recommended that FSPs receiving more than 10 complaints on a bi-annual basis are required to provide a report to their Board of Directors and to the CA bi-annually, which detail the: <ol style="list-style-type: none"> 1 Number of complaints and their causes 2 Products/Services and distribution points which generated the most complaints 3 Time for resolution of complaints 4 Number of complaints upheld and denied 5 Compensation provided 6 Recommendations which may help address/prevent issues which have arisen 	<p>1. Ref to the recommendation: Bi-annual Compliant report - Only required to be submitted only if number one complaints is ≥ 10 every six months? Should it be ≤ 10, then the reporting is not required?</p> <p>We are of the view that all FSPs should be required to report to the Board and Competent Authority on the statistics where this is available, trends seen and also on the status of the complaints handling procedures and the results of the reviews of testing done as part of their compliance programme.</p> <p>This will allow the Competent Authorities to compare the status of one FSP with another FSP of a similar profile. Based on number of customers and volume of transactions, the CA will then be able to form a view as to whether there is an issue with the process which exists at the FSP (eg. under reporting or not logging complaints to avoid the reporting obligations).</p>	<p>Section 8 of the FCPA already makes it an obligation on all FSPs to submit a bi-annual report to the CA.</p> <p>This section has therefore been removed from the policy paper.</p>

		<p>There may be cases even where the FSP receives only 1 or 2 complaints, these show serious or thematic issues existing within the FSP operations. With the proposal currently put forward, these will not be reported to the Board nor the CA.</p> <p>2. The number of complaints received on a bi-annual basis is largely dependent on the size and nature of the business. This recommendation may not be practical for all FSPs.</p> <p>3. Please clarify if there will be another bi-annual report to be submitted to the CA in addition to the report required per section 8 of the FCPA?</p> <p>4. We note that the majority of the information here is captured in the Securities Dealer Quarterly Returns Form which we are required to submit to the FSA on a quarterly basis.</p> <p>In the affirmative that an additional bi-annual report is required and in order to avoid the duplication of information being submitted to the FSA, we would like to put forth a proposal to amend section 8 of the FCPA to capture these details as part of the reporting</p>	
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28	It is recommended that the Regulations state that all new FSP customers should be provided with the complaints handling procedures upon establishment of a business relationship with them. Additionally, where applicable the procedures should be published on the websites of the FSPs and leaflets should be available on the premises of the FSP.	<p>1. Please clarify whether this is required to be provided as a standalone document at onboarding/the establishment of a business relationship or would it suffice to have the complaints handling policy/procedures published on the website at all times and information/clauses related to complaints also included in the client user agreement (including hyperlinks leading to this procedure/policy on the website).</p> <p>2. This contradicts our move towards digital. In finding a solution to this, would placing the Complaints procedures and a QR code (for more information) at the premises be sufficient as printing leaflets is not cost-efficient.</p>	<p>1. Both would be required.</p> <p>2. Whilst we agree regarding the digital aspect, we must be mindful to not exclude segments of the population. Not all customers own a smart phone or understand how to scan QR Codes. We must strive to ensure that all customers have equal access to information.</p>
	It is recommended that complaints that will not be considered by the CAs be adopted for the purpose of the Complaints Handling Regulations such as complaints which are anonymous, frivolous or vexatious	Above stated that “complainants [should] have exhausted all means of resolving their complaints directly with FSPs prior to handling complaints as per their Complaints Handling Guidelines”. This is not part of the criteria and it should be. It has been found in the past that complainants lodge a complaint to the CA prior to lodging same with the	It shall be a requirement in the Regulations that customers must have exhausted all means of resolving a complaint with the FSP before a complaint is lodged with the CA

		FSP to allow the FSP a chance to resolve same.	
29	The Regulations will set out the minimum standards for collection of information by the CA to be able to deal with a complainant (page 30) Based on the nature of the case, additional information may also be requested to allow for complete investigation	Also all relevant documentation to support the complaint. For example if its one made in regards to policy conditions then policy document would suffice or if it is in regards to a claim then the claim form, assessors' report would be applicable	Agree
31	It is recommended that staff handling complaints ensure a copy of the complainant's Identity Card/other means of confirming identity is obtained.	Does the FSP have to request a new proof of identity from the complainant or is the proof of identity within the complainant's insurance file sufficient (if still valid)?	If Valid ok
32	<p>1. When complaints are made on behalf of other individuals e.g. relatives of an elderly person. Internationally, for example at the Australian Financial Complaints Authority, such complaints are accepted. It is important that more details are requested from the person lodging the complaint in such cases. This includes, but is not limited to the below list:</p> <ul style="list-style-type: none"> • Identification of both the person lodging the complaint on behalf of an aggrieved customer and aggrieved customer. This is only applicable whereby the person lodging the complaint on behalf of a customer does not have a proxy on the account. • The relationship with complainant, • The reason why the aggrieved person cannot lodge the complaint themselves <p>For such cases, it is recommended that a signed approval is submitted by the aggrieved customers</p>	<p>1. The complainant will strongly oppose this. In the past we have found that complainants tend to get irritable when being requested to provide any information be it their policy number/claim number/ any supporting documents.</p> <p>Asking them to provide a written authorisation will put a strain on the complainant staff.</p> <p>2. Who will decide the best approach, FSPs or CA?</p>	<p>1. There must be substantial evidence that a person has been allowed to lodge a complaint on behalf of someone else. Proposal shall maintain. If a customer wishes for his/her complaint to be dealt with it is only fair that they provide all relevant information to allow their complaint to be taken up.</p> <p>2. The FSP as the first point of contact. If it is clear that the person cannot sign, then the best approach can be decided upon by the FSP being the first point of contact, and if this escalates to the CA, then the approach taken can be communicated to the CA.</p>

	<p>themselves, giving authorisation for the person to lodge a complaint on their behalf.</p> <p>2. It should be noted however that there are vulnerable groups e.g. the elderly where providing written consent may prove a challenge. In such instances, the best approach should be decided on a case by case basis given that in the past there have been initiatives undertaken by certain agencies/authorities whereby it was necessary for the signature of elderly persons to be obtained before proceeding with any steps.</p>		
33	<p>It is recommended that the CA have in place procedures for dispute resolution, and that these procedures are made available to the public.</p> <p>(Flowchart on page 33)- relating to mediation</p>	<p>The role seems unclear and appears to be only to facilitate mediation between FSP and complainant. This seems to be a lengthy and ineffective process, and would not work for Seychelles' context. It is recommended that the CA makes the final determination based on the facts presented rather than the case going for mediation.</p>	<p>Agreed, that the CA should make the determination. In any case, mediation has been removed as one of the options.</p>
37	<p>The Competent Authorities should be granted a maximum period of 45 days to investigate and make a determination on a complaint, with the option to extend this in the case of grossly complicated issues.</p>	<p>We are unclear on what is considered grossly complicated issues. Please clarify whether this will be defined in the Regulations.</p>	<p>No need to define as it would be subjective , perhaps we could provide some guidance or examples through guidelines</p>
39	<p>Complaints handling by CA:</p> <p>Given the complaints handling service which the CAs are offering, there should be staff dedicated</p>	<p>Is this the same for FSPs with a Complaints Unit? Therefore, staff with other duties may be allocated with the Complaints unit rather than having</p>	<p>It appears that the requirement differs for an FSP and that for the CA.</p>

	for attending to complaints from the public. In view that complaints received by CAs are less than those received by FSPs, it is not required that a specific unit is set up solely for complaints handling, however there can be staff allocated with this task within a particular section, and that these staff members receive regular training for the handling of complaints.	people with the sole occupation of complaints?	<p>The criteria for FSPs is different to the CA given that FSPs are the first point of contact with customers and ideally the majority of complaints should be solved by the FSPs without having to go to the Competent Authorities. The staff at the CA are available to handle complaints only if the dispute was not resolved at the level of the FSP.</p> <p>For FSPs with over 30 staff or for those with complex operations, they will be required to have a separate unit. To note that a unit does not need to be a large team of staff. A unit can be 1 or 2 individuals dedicated solely for complaints handling, and can also take up other duties such as improving the complaints process, ensuring feedback from customers is taken into account etc...(the specific duties of the staff will be at the discretion of the FSP)</p>
	GENERAL COMMENT	Also proposed for ease of reference that a schedule is included as part of the regulations, stipulating all the relevant timeframes within the complaint handling lifecycle.	Would be more relevant in guidelines than Regulations