



HONG KONG MONETARY AUTHORITY
香港金融管理局

What to do if you have a complaint about banking products or services



Who we are



When to seek help



How do we handle your complaint



What is our response to your complaint



How to lodge your complaint with us

This booklet sets out the role and procedures of the Hong Kong Monetary Authority (HKMA) in handling customer complaints about banking products or services.

Who we are

The HKMA is the government authority responsible for promoting the stability and effective working of the banking system. Financial institutions supervised by the HKMA include licensed banks, restricted licence banks and deposit-taking companies (collectively referred to below as banks). Money lenders are not subject to the HKMA's supervision.

Although the HKMA has no statutory responsibility for consumer protection, it has responsibilities under the Banking Ordinance to ensure that banks are operated in a responsible, honest and business-like manner and to promote proper standards of conduct and sound and prudent business practices among banks. Its functions also include suppressing illegal, dishonourable or improper practices in relation to the business practices of banks.

The **Enforcement Department** of the HKMA is responsible for handling customer complaints and conducting investigations. The HKMA has also issued a supervisory guideline requiring banks to handle their customer complaints thoroughly, fairly and promptly. Such guideline can be found on the HKMA website.

What we can do

- ✓ ensure that the handling of complaints by banks is thorough, fair and timely
- ✓ follow up complaints which raise issues of supervisory concern
- ✓ investigate complaints which raise issues of disciplinary concern regarding banks and their staff and, if substantiated, take appropriate action

What we cannot do

- ✗ interfere with banks' commercial decisions
- ✗ intervene in, or adjudicate, disputes between banks and their customers
- ✗ order banks to pay compensation to their customers

What to do first if you have a complaint

Many complaints arise from misunderstanding or mismatch of expectations, and they can often be resolved after you have talked to the bank. Each bank has designated an officer to handle your complaint. The contact details of these officers can be found on the HKMA website.

If your complaint against the bank involves a monetary claim, you may wish to consider whether mediation or arbitration could provide a more speedy and affordable means of resolving your complaint.

When to seek help

You may lodge a complaint with the HKMA about the products or services provided by a bank if:

- the bank refuses to handle your complaint
- you consider that the bank does not handle your complaint in a fair manner
- the bank fails to provide you with a final reply within 30 days¹ after receiving your complaint
- you are not satisfied with the responses provided by the bank
- you have grounds to believe that your interests have been prejudiced by the bank's practices or the conduct of any of its staff

How do we handle your complaint

Upon receipt of your complaint, we will review it and, where necessary, contact you to seek further information or clarification. In handling your complaint, we may refer it to the bank for investigation and a further reply to you or require the bank to provide us with information. We will then conduct an assessment of your complaint based on the information provided by you and the bank. Our assessment will focus on whether:

- your complaint has been properly handled by the bank in accordance with our guidelines on complaint handling
- your complaint raises any concerns about the bank's business practices or the conduct of its staff

¹ Up to 60 days is allowed for the final reply in more complicated cases. But the bank should give the complainant an interim reply within 30 days explaining why a longer period is required.

Following the assessment, we will decide whether and what action should be taken. Below are some illustrative examples:

If your complaint relates to a commercial dispute

If the matter of complaint is purely commercial (such as cost or quality of banking services) and the bank has handled the complaint properly, we will not take any further action (see Example 1).

Example



Mr X had not used his savings account held with Bank A for the last five years and decided to close the account. At the time of account closure, he found that Bank A had debited a fee of HK\$100 from his account every six months since the account became dormant 4 years ago. Mr X complained that Bank A had never advised him of the levy of such fee.

HKMA's assessment

The setting of fees and charges for banking services is a commercial decision for banks. However, banks are required to be transparent about their fees and charges as specified in the Code of Banking Practice. In Mr X's case, the HKMA noted that Bank A had clearly set out the dormant account fee in its standard fee schedule and had sent a notice to Mr X no less than 30 days before the fee was levied for the first time. Since Bank A had replied to Mr X's complaint and explained the steps taken to advise Mr X of the levy of the fee, the HKMA decided not to follow up Mr X's case with Bank A further.

If your complaint relates to the bank's complaint handling procedures

Should there be concerns about the bank's handling of the complaint, we will refer the complaint to the bank for re-investigation and a further reply to the complainant, normally within 30 days. We will monitor the bank's handling process and review the reply to the complainant to check that the bank's complaint handling procedures are appropriate and working properly (see Example 2).

Example



Mr Y tried to deposit a cheque into his savings account with Bank B on a Saturday morning. The teller told him that the bank would not accept over-counter cheque deposits on Saturday but he could place his cheque in the cheque deposit box. Mr Y later found out that the funds arising from the cheque were not available on the following Monday. He lodged a complaint with Bank B and was told that the funds would be available on Tuesday afternoon. There was no further explanation from Bank B. He complained to the HKMA that Bank B refused to provide over-counter cheque deposit service on Saturday and caused delay in clearing his cheque.

HKMA's assessment

The HKMA noted that Bank B had not properly explained to Mr Y about the mechanism of the five-day clearing week. The HKMA referred the case to Bank B and asked it to provide a more thorough reply to Mr Y. The HKMA also followed up with Bank B to ascertain if its complaint handling procedures needed to be further improved.

If your complaint raises issues of supervisory concern

Some complaints may raise issues of supervisory concern. These would include complaints which indicate that a bank has breached, for example, our supervisory guidelines or the Code of Banking Practice. Where a bank may have acted in a way that does not comply with supervisory requirements, we will pursue this with the bank and, where necessary, require remedial action to be taken by the bank (see Example 3).

Example



Mr Z maintained a deposit account with Bank C. On 15 December 2010, Mr Z received a notice from Bank C setting out that the level of fees and charges would be revised with effect from 1 January 2011. He complained to the HKMA that Bank C revised its fees and charges without giving him a reasonable period of notice.

HKMA's assessment

According to section 6.3 of the Code of Banking Practice, banks should give at least 30 days' notice to affected customers before any change in the level of fees and charges takes effect. The HKMA followed up the matter with Bank C, and Bank C agreed to postpone the effective date of the revised schedule of fees and charges to 1 April 2011 and notify the affected customers again with a prior notice of no less than 30 days.

If your complaint raises issues of disciplinary concern

Some complaints may raise issues of disciplinary concern as they relate to the conduct of a bank or its staff (including its senior management). These include complaints arising from the regulated activities of the bank's securities and futures business. The HKMA will carry out an investigation if it considers that there are sufficient grounds to do so. Where an investigation reveals misconduct by a bank or its staff, the HKMA will take appropriate action or refer the case to other relevant enforcement or regulatory bodies for further action (see Examples 4 and 5).

Example



Miss S was a recent university graduate and a credit cardholder of Bank D. Miss S received a letter from Bank D informing her that her credit limit was doubled. Miss S then used her credit card excessively and fell into financial difficulties. Mr S, who was the father of Miss S, took up the loan and repaid it with 12-month rescheduling. Mr S complained to the HKMA that Bank D had not considered the repayment ability of his daughter before increasing her credit card limit. Subsequently, the HKMA received a number of similar complaints from cardholders of Bank D.

HKMA's assessment

Banks are required to have an effective system to manage the risks associated with their credit card business. It is not a prudent practice for banks to unilaterally increase cardholders' credit limits without properly assessing their repayment ability. In the course of handling Mr S's complaint, the HKMA noted that the Personal Banking Department of Bank D decided to automatically double the credit card limits of its customers so as to meet its business target. As such, the HKMA decided to:

- (i) look into the incident to find out whether the Head of Personal Banking should be held responsible for these imprudent practices and whether he / she continues to be a fit and proper person to hold such managerial position in Bank D; and
- (ii) advise Bank D to take a more accommodating and flexible approach to working out the overdue loans with its credit card customers.

Example



Mr W subscribed to an equity-linked note ("ELN") through a sales staff, Ms V, of Bank E. He subsequently suffered a loss on his investment when he was required to take up the underlying stock upon the maturity of the ELN. Mr W complained to the HKMA that Ms V failed to disclose the nature and risks of the ELN to him and ensure the product suitability for him.

HKMA's assessment

It is a regulatory requirement that a licensed or registered person should comply with the requirements set out in the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission. Having reviewed Mr W's complaint, the HKMA found sufficient prima facie evidence to start an investigation into the conduct of Ms V, a relevant individual registered with the HKMA. After considering the evidence obtained through the investigation, the HKMA reached the view that Ms V was guilty of misconduct as she had circumvented the bank's internal policies and procedures and failed to ensure that Mr W understood the nature and risks of the ELN. In view of her misconduct and on the particular facts of the case, the HKMA decided to suspend Ms V's registration for a period of six months.

What is our response to your complaint

Upon completion of our assessment of your complaint, we will inform you whether or not we consider there are grounds for taking the complaint further. However, we may not always be able to inform you of what we find in the investigation or any further action we may take. This is because the Banking Ordinance requires us to keep such information confidential and prohibits disclosure save in certain specified circumstances. Where disclosure is permitted, we may inform the public of the action that has been taken following investigation of a complaint.

How to lodge your complaint with us

To facilitate our handling of your complaint about banking products or services, we have designed a complaint form for you to lodge with us. Please complete the complaint form and provide copies of supporting documents relevant to your complaint. Anonymous complaints or complaints without sufficient information will be difficult to process.

The complaint form can be downloaded from the HKMA website or, upon your request, sent to you by fax, by post or by email. Please contact our hotline at 2878 1378 if you have any enquiry. The operating hours of our hotline are from 9:00 a.m. to 6:00 p.m. (Monday to Friday).

Once you have completed the complaint form, you can send it to us, together with copies of supporting documents (if any):



by post to: Complaint Processing Centre
Enforcement Department
Hong Kong Monetary Authority
55/F, Two International Finance Centre,
8 Finance Street, Central, Hong Kong

by email to: bankcomplaints@hkma.gov.hk

by fax to: 2509 3990

Assistance will be offered to individuals with special needs who have difficulties lodging their complaints in writing.

Privacy policy statement

You may choose to supply the HKMA with your personal data when you lodge a complaint with us. If the data you provide are inaccurate or incomplete, the processing of your complaint may be affected. Subject to the provisions of the Personal Data (Privacy) Ordinance, all personal data submitted to us will only be used for purposes which are directly related to the handling of your complaint. Personal data collected by us in the course of handling a complaint may be used by, or disclosed to, or transferred to, third parties (including the party being complained of, regulatory bodies, law enforcement agencies or other parties concerned). Your personal data collected in connection with your complaint will not be retained by the HKMA for longer than is necessary to fulfil the purpose for which the data were collected. The period for which it is necessary to retain personal data will depend on the circumstances of each case. However, in general, it is not expected that the HKMA will keep your personal data for a period exceeding 7 years.

If you wish to access or correct your own personal data supplied to us by you, you may do so in writing. Any such request should be addressed to the Enforcement Department of the HKMA for the attention of the Personal Data Privacy Officer. The HKMA may charge a reasonable fee for complying with a data access request.



**Enforcement Department
Hong Kong Monetary Authority**

55/F, Two International Finance Centre
8 Finance Street, Central, Hong Kong

Telephone: 2878 1378

Website: www.hkma.gov.hk