HONG KONG MONETARY AUTHORITY
香港金融管理局

Our Ref: B1/15C

8 October 2015

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Complaints Watch

The Hong Kong Monetary Authority (HKMA) published today the fifth issue of Complaints Watch.

Complaints Watch is a periodic newsletter to share with the banking industry information on complaints received by the HKMA. It highlights the latest complaint trends, emerging topical issues, and areas that authorized institutions (AIs) may wish to place greater focus on. It forms part of the HKMA's work to promote proper standards of conduct and prudent business practices among AIs.

A copy of Complaints Watch is enclosed for your perusal. You may wish to forward it to members of your institution who have responsibilities for selling of retail and investment products, risk management, compliance and complaints handling for reference.

If there are any questions on the above, please contact Ms Cathy Chan on 2516 7525 or Ms Peggy Lo on 2516 7833.

Yours faithfully,

Meena Datwani
Director-General (Enforcement)

Encl.

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Complaints Watch

Issue No. 5
8 October 2015

Complaints Watch is published by the Complaint Processing Centre (CPC) of the Hong Kong Monetary Authority (HKMA). It highlights the latest complaint trends, emerging topical issues, and areas that banks may wish to place greater focus on. It forms part of the HKMA's work to promote proper standards of conduct and prudent business practices among banks.

Complaint statistics

May to Aug 2015	General banking services	Conduct-related issues	Total
In progress as of 1 May 2015	281	177	**458**
Received during the period	520	79	**599**
Completed during the period	(329)	(67)	**(396)**
In progress as of 31 Aug 2015	472	189	**661**

Compared to the last reporting period (January-April 2015), the number of complaints received between May and August 2015 increased by 27% or 127 cases to 599 cases. Complaints about the closure of individual and company accounts rose by 76% or 25 cases to 58 cases. Complaints about loan solicitations by callers purporting to be bank staff or their representatives rose by 23 cases to 30 cases. Other major types of complaints received included complaints about fees and charges (68), followed by complaints relating to disputes about fund transfers (65), investment products (64) (with 20 cases relating to possible mis-selling), service quality (46) and insurance products (37) (with 31 cases relating to possible mis-selling).

Execution of customer due diligence measures

During the reporting period (May to August 2015), banks' account opening process and their closure of customer accounts continued to be one of the major areas of customer complaints. These complaints mainly related to improper execution of the bank's customer due diligence (CDD) measures which usually take place when a new customer requests to open an account or an existing customer is requested by the bank to submit updated CDD information or documents[1].

From what we have observed through these CDD related complaints, there are several issues with banks' execution of the CDD measures and some of the cases arose from miscommunication with customers rather than discriminatory practices of banks. In some cases, it took a few months for a bank to complete the CDD review process for a particular customer because of failure by the bank to follow-up in a timely manner with the customer for the outstanding information or documentary proof required by it (whilst the customer might have thought that all the required information had already been submitted to the bank). Miscommunication with customers caused by shortcomings in the bank's internal co-ordination between different internal parties responsible for the following-up with the customers on different work processes at different stages was another common observation.

Apart from issues with the CDD execution which reflected deficiencies in the bank's internal control systems, how front-line staff communicated with customers whose accounts were subject to regular review under various circumstances and whether

[1] It is a statutory obligation under the Anti-money laundering and counter-terrorist financing (Financial Institutions) Ordinance for banks to review the documents, data and information relating to a customer obtained for CDD purpose from time to time to ensure that they are up-to-date and relevant.

banks pragmatically allowed front-line staff to exercise flexibility for customers in meeting such requirements might also be an area requiring attention. In a number of complaints, front-line staff might have failed to clearly explain to the customers the reasons for requiring certain documentary proof (such as business proof or address proof) and were seemingly reluctant to accept alternative proof or adopt a flexible approach for verifying the submitted information, when the customer expressed genuine difficulty in providing the more common types of documentary proof required under the bank's internal policy and procedures.

During the account opening process, some customers appeared not to have been sufficiently informed and were therefore confused about the purpose for signing various standard forms or making certain declaration applicable to all applicants, such as the forms/declaration in relation to the Foreign Account Tax Compliance Act and the Personal Data (Privacy) Ordinance. Due to the difficulties in communicating with banks' front-line staff and the longer-than-expected processing time, some customers, especially ethnic minorities, may have formed an impression that banks had imposed unnecessary and burdensome account opening requirements to deter them from applying for, or continuing to use banking services. Furthermore, insufficient cultural sensitivity of front-line staff may give rise to misunderstanding and result in complaints lodged by the ethnic minority customers.

The HKMA will continue to follow up with the relevant banks regarding their handling of these sorts of complaints and will review banks' practices to ascertain, in particular, whether sufficient training and guidance have been provided to front-line staff to enable them to make appropriate judgement and exercise flexibility when faced with the unique circumstances. Also, effectiveness of the bank's complaint handling

function is an area on which we will focus when reviewing these complaints with the banks concerned.

To this end, the Treat Customers Fairly (TCF) principles which all retail banks have pledged to implement aims to foster a customer-centric culture at all levels of the banks and in every business line. Customer complaints about unreasonable denial of banking service, if substantiated, would cause us to question whether the bank's practice is in line with the TCF principles. This may expose the bank concerned to significant reputation risk, and also raise public concerns about the industry as a whole (like the allegation of discrimination in the complaints of ethnic minority customers). Any common issues revealed through customer complaints should be promptly attended to and rectified by the bank's senior management, in their effort to promote proper staff conduct and culture at all levels of the bank.

Engagement of intermediaries in loan solicitation

During the reporting period, the HKMA received a number of complaints relating to banks' engagement of intermediaries in solicitation of loan business[2]. These complaints usually involved allegations about the improper practices adopted by the intermediaries, banks' sales staff and/or other agents in the loan solicitation process can be categorized into two major areas to which that banks should pay due attention, namely, (1) controls and monitoring over the source of business of sales staff and agents; and (2) incentive schemes which encourage dishonourable behaviour and/or illegal acts.

The complainant in a complaint falling under the first category alleged that an intermediary gained her trust as he had in his possession personal information about her existing loan with a bank. The intermediary was therefore able to persuade the complainant to transfer the loan to other banks supposedly at a preferential interest rate without handling fee. Instead, the complainant ended up obtaining a loan from another bank but the intermediary subsequently charged her an unreasonably high handling fee.

An example of a complaint falling under the second category in relation to inappropriate incentive schemes, the complainant alleged that a sales supervisor of a bank pressurized his sales staff to meet sales quota by purchasing loan applications

[2] With the increasing number of related complaints and reports, the HKMA issued a circular to the banking industry on 7 August 2015 introducing new measures to address concerns about possible malpractices by external parties engaging in the marketing of financial products or services, including the cessation of use of intermediaries by banks for sourcing retail consumer financial products or services such as personal loans, tax loans and credit cards. These measures will not only increase the protection accorded to bank customers but reduce potential reputational risk of the banking industry.

from other staff or approaching designated financial intermediaries for loan referrals.

While the investigation of these two complaints and others involving credit intermediaries is still ongoing, it is imperative for all banks to remain highly vigilant in protecting personal data of customers in order to prevent any customer data leakage by banks and misuse of such data by third parties. Incentive schemes for loan sales staff should be reviewed and adjusted as necessary to prevent possible abuses in this regard. Stringent internal control measures should be adopted and regular staff training should be provided to ensure the confidentiality of customer data is adequately safeguarded. The HKMA will continue to monitor banks' compliance in this regard as part of its ongoing supervisory process.

Also, where there is prima facie evidence of unauthorized access to or transfer of a customers' personal data, the HKMA will have no hesitation in referring the matter to the Police and/or the Privacy Commissioner for further investigation.