



HONG KONG MONETARY AUTHORITY
香港金融管理局

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25 January 2019

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Handling Procedures for Following up Mis-transfer of Funds

I am writing to draw your attention to the circulars issued by the Hong Kong Association of Banks (HKAB) and the DTC Association (DTCA) on “Handling Procedures for Following up Mis-transfer of Funds Reported by Customers” (the “Handling Procedures”) which the Hong Kong Monetary Authority (HKMA) expects Authorized Institutions (AIs) to adopt. Please refer to the **Annex** of this circular for the Handling Procedures.

From time to time, there are cases where customers of AIs erroneously transfer funds to wrong recipients and request assistance from their AIs to recover their mis-transferred funds. One of the general principles in the Code of Banking Practice requires AIs to have in place relevant information, control and protection mechanisms to protect customers’ financial assets appropriately, including against misappropriation or other misuses. Hence, AIs are expected to have proper procedures and mechanisms to assist customers on the aforementioned cases. With an aim of providing greater clarity and further enhancement to AIs’ existing processes, HKAB, in consultation with the HKMA, has worked out the Handling Procedures for the banking industry to adopt in relation to following up cases of mis-transfer of funds.

The Handling Procedures apply to reports by customers who have made payments to wrong recipients through any banking channels (including, among others, automated teller machines (ATMs), online banking, mobile banking, phone banking and bank branches) and subsequently effected via the Faster Payment System (FPS), Real Time Gross Settlement (RTGS) systems, or other mechanisms or systems. For the avoidance of doubt, the Handling Procedures

apply to fund transfers involving AIs and/or stored value facility (SVF) licensees.

AIs should observe and implement the Handling Procedures with effect from 25 March 2019. AIs are also reminded to have proper process and control to ensure that the Handling Procedures are duly adopted and enforced. The HKMA will monitor AIs' implementation of the Handling Procedures.

In addition, AIs should conduct adequate customer education through appropriate channels. On the one hand, AIs should remind customers to be careful and avoid errors when making fund transfers. On the other hand, AIs should also remind customers to return the mis-transferred funds through the AIs in the event that they have received funds that are mis-transferred to them, and the possible criminal liability if they do not return the mis-transferred funds.

Should you have any questions regarding this circular, please feel free to contact Ms Stella Ma on 2878-8601 or Ms Teresa Chu on 2878-1563.

Yours faithfully,

Alan Au
Executive Director (Banking Conduct)

Encl.

**Handling Procedures for
Following up Mis-transfer of Funds Reported by Customers**

In order to enhance customer experience, this circular contains the recommended handling procedures (“Recommended Handling Procedures”) for reports from customers that they have made payments to a third party by mistake. The Recommended Handling Procedures are industry good practices developed by the Hong Kong Association of Banks (HKAB) in consultation with the Hong Kong Monetary Authority (HKMA).

I. Scope of Recommended Handling Procedures

The Recommended Handling Procedures apply to reports by customers (“transferors”) that they have made payments to a third party (“transferees”) by mistake (“mis-transfer of funds”) through any banking channels (including, among others, automated teller machines (ATMs), online banking, mobile banking, phone banking and bank branches) or stored value facility (SVF) licensees and subsequently effected via Faster Payment System (FPS), Real Time Gross Settlement (RTGS) systems, or other mechanisms or systems.

The intermediaries involved may be a bank or an SVF licensee. Accordingly, the Recommended Handling Procedures apply to banks and SVF licensees, whether acting for the transferee or transferor or both parties in the same transaction.

II. Recommended Handling Procedures

1. When the transferor reports a case of mis-transfer of funds to the transferor’s bank or SVF licensee as the case may be (“Transferor’s Institution”), the Transferor’s Institution should request the transferor to provide relevant information¹ to facilitate follow-up actions and obtain consent from the transferor for the sharing of these information with the Transferee’s Institution, the Transferee and the Hong Kong Police Force (“Police”) as appropriate for the purpose of handling the mis-transfer of funds. Examples of such information include:

¹ For a more user-friendly practice, the Transferor’s Institution is expected to have in place hard-copy and/or electronic forms to facilitate customers to report mis-transfer cases.

- date and time of the mis-transfer;
 - amount of the transaction involved;
 - the transferor's bank account involved;
 - the transferee's bank account (or relevant identifiers such as mobile phone number or e-mail address in the case of an FPS transaction) to which the funds have been erroneously transferred; and
 - means (e.g. cash, cheque or fund transfer) and channels (e.g. bank branch, ATM, online/mobile channel) of the transaction.
2. The Transferor's Institution should provide a written acknowledgement of receipt to the transferor by post, e-mail or SMS no later than the close of business of the next business day after receiving the transferor's report.
 3. The Transferor's Institution should, on behalf of the transferor and within 2 working days after receiving the transferor's report, request the transferee's bank or SVF licensee as the case may be ("Transferee's Institution") to (a) inform the transferee of the matter and (b) confirm with the transferee if any funds were mis-transferred and, if so, obtain the transferee's authorization of returning the mis-transferred funds. The Transferee's Institution should contact the transferee by telephone calls and written communication² by posting a letter to the transferee's correspondence address.

The Transferee's Institution should provide necessary information (e.g. the transferee's bank statements, transaction records, or details of the relevant transaction, such as the transferee's relevant bank account number, transaction date, transaction amount, transactional channel and transactional narrative (if any)) that could help the transferee to determine in a timely and helpful manner if the funds were mis-transferred to them. The transferee should also be reminded that they may be criminally liable if the mis-transferred funds are not returned.

4. If the Transferee's Institution does not receive a response from the transferee within a reasonable period of time, it should contact the transferee through registered mail² to seek to (a) obtain the transferee's authorization of returning the mis-transferred funds, and (b) provide the necessary

² If the SVF licensee does not have a postal or correspondence address of the transferee (e.g. such information was not provided by the transferee to the SVF licensee during customer on-boarding), the SVF licensee should use all other available means of written communications, e.g. SMS or e-mail, to contact the transferee.

information and reminder on liability in step 3 above.

5. The Transferee's Institution is responsible for documenting the work done and providing a written confirmation listing the dates, all the actions taken in negotiating with the transferee and the final results to the Transferor's Institution within 15 working days from the date of receipt of the request from the Transferor's Institution.

Throughout the process, the Transferee's Institution should keep a proper record and documentation on the follow-up work and the related progress so that it is able to answer the related queries raised by the Transferor's Institution or on behalf of the transferor.

6. Similarly, the Transferor's Institution should also maintain a proper record and documentation so that it is able to answer the related queries raised by the transferor from time to time.
7. The Transferor's Institution should send a final written response to the transferor within a reasonable period of time (normally not exceeding 20 working days from the date of receipt of the transferor's report). The final written response should include written confirmation from the Transferee's Institution with details³ of the dates and all the actions taken in the negotiation with the transferee and the results, without disclosing the personal data of the transferee. Such information (a) could assist the Police to assess whether the matter suggests a case of crime and (b) may facilitate the transferor to consider taking further appropriate actions.

If the funds cannot be recovered through the above process, the Transferor's Institution should inform the transferor the options available to them – such as reporting to the Police (i.e. anyone who intentionally spends money that does not belong to them could be committing a crime of theft, which can be reported to the Police) or seeking independent legal advice on possible legal actions for recovering the funds as necessary.

³ If the transferor has fully recovered the mis-transferred funds within 20 working days from the date of reporting the case, the final written response from the Transferor's Institution to the transferor could include only the final result (i.e. the result that the funds have been returned to the transferor), the date and the amount of the funds that have been returned to the transferor without all the details mentioned in Step 7, unless the transferor requests for the full details as mentioned in Step 7.

In some cases, the Transferee's Institution may not be able to contact the transferee by the time the Transferee's Institution issues the final written response (e.g. the transferee has been uncontactable due to overseas travel) to the Transferor's Institution. The Transferor's Institution and Transferee's Institution should continue to provide appropriate assistance to the transferor to seek to obtain the transferee's authorization of returning the mis-transferred funds even after a final written response has been issued to the transferor.

8. If authorization is obtained from the transferee for returning the funds, the Transferee's Institution should recover and return the funds to the Transferor's Institution as soon as practicable. The Transferor's Institution should then return the funds to the transferor as soon as practicable.
9. Notwithstanding the maximum timeline specified in the procedures, the Transferor's Institution and Transferee's Institution should make their best endeavours to process the requests in a timely manner and as soon as practicable.
10. In the case of **intra-bank fund transfer** where the Transferor's Institution and the Transferee's Institution is the same bank or SVF licensee, the bank or SVF licensee should carry out all the measures and procedures as mentioned above accordingly.

III. Staff Training and Customer Communication

Members are also reminded to conduct sufficient staff training on handling enquiries on mis-transfers of funds, including telling the customer who has reported such a case about the assistance the bank or SVF licensee will provide to the customer. Members should also provide the customer with a case reference number and a contact phone number to enable the customer to make enquiries on the progress as necessary.

IV. Customer Education

Members should undertake appropriate customer education through appropriate channels to (i) remind customers to be careful and avoid errors when making fund transfers, and (ii) remind customers to return the mis-transferred funds through the banks in the event that they have received funds that are mis-transferred to them, and the possible criminal liability if they do not return the mis-transferred funds.