



HONG KONG MONETARY AUTHORITY
香港金融管理局

Our Ref: B1/15C

6 March 2020

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Complaints Watch

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

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

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

If there are any questions on the above, please contact Mr Gabriel Ho on 2878 7504 or Ms Mimi Chow on 2878 7549.

Yours faithfully,

Carmen Chu
Executive Director (Enforcement and AML)

Encl.



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

Jul 2019 to Jan 2020	General banking services	Conduct-related issues	Total
In progress as of 30 Jun 2019	343	91	434
Received during the period	981	134	1,115
Completed during the period	(1,009)	(119)	(1,128)
In progress as of 31 Jan 2020	315	106	421

The HKMA received 1,115 complaints between July 2019 and January 2020. The major types of complaints received were related to provision of banking services (195), service quality (139), remittance services (127), client agreement terms (95), fees and charges (73), and alleged mis-selling (66).

Customer inquiries on long-standing/closed accounts

The HKMA has received complaints lodged especially by the elderly and/or their siblings alleging that the banks concerned were not able to locate account records and/or the whereabouts of deposit funds placed some years ago. These complainants presented paper documents, such as time-deposit receipts or savings passbooks with the last account entry shown therein dating back many years ago (ranging from 20 to more than 30 years in these complaints). Due to the lapse of time, some banks were unable to retrieve records of the complainants, including the date of account closure where the business relationship had already been terminated.

Generally, banks set their respective policies and record retention periods in accordance with applicable legal requirements including the Personal Data (Privacy) Ordinance, such that personal data of customers would not be kept longer than necessary. While some banks completely erase all customer and transaction information for closed accounts after a number of years as specified in individual banks' policies and procedures, other banks have developed more sophisticated policies and procedures in retaining necessary customer information including for closed accounts.

To address inquiries of this nature in a transparent and efficient manner, banks should review relevant policies and procedures including the necessity and thus retention of certain basic information of closed accounts such as account closure date and last account balance.

Banks' treatment of joint bank accounts in the case of mental incapacity

Joint bank accounts are not uncommon in Hong Kong. Members of a family may prefer to jointly open a bank account to facilitate financial management for their family. Usually, the terms and conditions governing the operation of joint bank accounts are prescribed in the account opening agreements, which explain, among others, in what circumstances an account holder will be considered to lack mental capacity and how a joint account will be handled by the bank in such eventuality. For example, some banks may freeze the joint account until there is a legally valid arrangement with respect to the interest of the affected account holder; some may allow the other account holders to operate the account subject to certain conditions (which may be determined at the banks' discretion or agreed with customers in advance); and others may handle the situation in different ways.

The HKMA from time to time has received customer complaints concerning the handling of joint accounts by banks in the unfortunate circumstances of mental incapacity including dementia of one of the account holders. Such complaints may concern not only the interests of the account holder who has become incapacitated but also the interests of the other account holders.

While each complaint was handled in the light of individual circumstances, to holistically minimise the potential for misunderstanding and customer disputes, it is important that banks highlight the relevant terms and conditions and that policies and practices are sufficiently transparent to joint account holders. In line with the recommendations set out in the Code of Banking Practice, it is advisable for banks to

explain the terms and conditions clearly when they open joint accounts for customers and to explain how the joint account will be handled if one of the account holders became mentally incapacitated. As a good practice, banks are also encouraged to remind joint account holders in the course of ongoing communications of the relevant terms and conditions which may affect the operation of the joint accounts.

If, in the event of a joint account holder becoming incapacitated, a bank allows the account to continue to be operated by the other account holders and/or any authorised person, the relevant details, such as the identities of those persons who can operate the account, the conditions for such operations and the types of transactions that can be operated in these circumstances, should be stated clearly as far as possible and made known to all account holders.

Banks should also conduct regular reviews of their policies and practices regarding the treatment of joint bank accounts, with a view to making sure that the arrangements are in accordance with the terms and conditions of the customer agreement and, as far as possible, able to fairly address the various interests of all the holders of a joint account on an ongoing basis.

Comments and feedback on *Complaints Watch* are welcome. Please email them to bankcomplaints@hkma.gov.hk.