



HONG KONG MONETARY AUTHORITY

香港金融管理局

Our Ref: B1/15C

9 December 2016

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Complaints Watch

The Hong Kong Monetary Authority (HKMA) has today published the eighth 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 eighth 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 complaints handling for reference.

If there are any questions on the above, please contact Ms Cathy Chan on 2878 7504 or Ms Peggy Lo on 2878 7549.

Yours faithfully,

Meena Datwani
Executive Director (Enforcement and AML)

Encl.



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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 2016	General banking services	Conduct-related issues	Total
In progress as of 1 May 2016	366	247	613
Received during the period	550	84	634
Completed during the period	(551)	(70)	(621)
In progress as of 31 Aug 2016	365	261	626

Compared to the last reporting period (January-April 2016), the number of complaints received between May and August 2016 increased by 19% or 100 cases to 634 cases. Complaints concerning credit card transaction disputes increased significantly by 144% or 36 cases to 61 cases (with 35 cases related to the closure of a fitness gym chain). Other major types of complaints received included those concerning disputes about fund transfers (66), followed by complaints relating to service quality (64), fees and charges (61), alleged mis-selling (57), client agreement terms (45) and closure of accounts (40).

Automated Teller Machine (ATM) / Cash Deposit Machine (CDM) disputes

During the first nine months of 2016, the CPC received 40 complaints regarding ATM / CDM disputes.

These mainly concerned unauthorized cash withdrawal from ATMs or disputes on the cash amount deposited into CDMs. In some cases, the complainant also reported the matter to the police. We observed that whilst surveillance cameras were often installed at the locations where the incidents allegedly occurred, the banks concerned were unable to retrieve the relevant closed-circuit television (CCTV) record which would have been useful as it would have provided objective supplementary evidence not only for their own internal investigation but also to assist the police in their investigation. Instead of taking proactive measures to retain the relevant CCTV footages, banks followed their usual practice so that these footages were over-written after the pre-determined retention period despite the fact that the bank staff responsible for handling the ATM / CDM disputes had full knowledge of the complaints including reports to the police. The banks' policies did not include exception to the normal retention period for such footage and require bank staff to take steps to ensure the relevant CCTV records are preserved to facilitate complaints handling and police investigations.

In these circumstances, the banks could only rely on the complainants' claims and the information available from the ATMs / CDMs such as records of the transactions, ATM cards used, inputted personal identity number, cash count and any other relevant records as appropriate to establish whether or not the disputed cash

withdrawals/deposits could be substantiated.

Whilst it is understandable that banks have their own established policies on retention of security surveillance records for a limited period in accordance with the data privacy law and to decide whether review of the CCTV footage would be necessary in their investigation of the ATM / CDM disputes since the CCTV records may not always be able to provide clues to identify unauthorised transactions or irregularities, banks should take reasonable steps to ensure that all crucial and objective evidence can be preserved and taken into account during investigation by banks and the police so that the complainants' allegations can be investigated fully and objectively with concrete evidence. In case where a complainant requests to examine the CCTV records, the fact that the bank concerned has reviewed such records as part of its investigation into ATM / CDM disputes would enable the bank to respond with greater speed and certainty. The HKMA would recommend that banks stay alert to ATM / CDM disputes of this nature and retain the relevant CCTV records for a longer period where necessary when they handle ATM / CDM disputes, especially those involving allegation of unauthorized transactions.

Below Balance Fee (BBF)

From time to time, the HKMA receives complaints relating to BBF. They can generally be classified into two categories, namely (1) complaints from customers who were invited for an account upgrade to the next higher tier of account, but were not aware of the new minimum balance requirement; and (2) disputes on the increased minimum account balance requirement for existing accounts. Usually complaints were triggered when banks started charging a BBF after the waiver or notification period.

In the first category of complaints, bank customers usually alleged that they were persuaded to upgrade their accounts without noticing the higher minimum balance threshold and the corresponding BBF. They only intended to open a general savings or current account and most of the additional banking services offered by the higher tier of account were of little use to them. The complainants eventually had to downgrade their accounts when BBF was levied after the expiry of the promotional period.

Whilst the information revealed from our assessment of the complaints suggests that there are clear records to prove customers' concurrence of the account upgrade, banks should pay attention to such questions as whether customers' needs have been properly taken into consideration when offering a particular account type, and whether there has been adequate disclosure to customers of the corresponding minimum balance requirement together with the BBF. In opening accounts for new customers or when inviting existing customers to upgrade their accounts, banks should ensure that their front-line staff have assessed the financial capabilities and needs of customers as set

out in Principle 1 of the Treat Customers Fairly Charter (the Charter) as well as clearly explained the account features, and the charges payable if the balance falls below the prescribed minimum in accordance with section 18.1 of the Code of Banking Practice. This not only enables customers to make an informed choice, but can also avoid future customer disputes and complaints in this area.

For the second category of complaints, whilst it is a commercial decision for banks to revise their minimum account balance requirement, however as changes to the basis for the determination of BBF may affect the liabilities and obligations of customers, banks are required to give at least a 30-day advance notice of the change to the affected customers under the Code of Banking Practice. The possible impact on customers if they refuse to accept the changes, the method by which they may indicate refusal to the changes, and the alternative arrangements for customers should be clearly explained to them to ensure that customers are treated fairly. In designing the alternative arrangements for customers, banks should particularly take note of Principle 5 of the Charter and offer basic banking services (such as HKD deposit and withdrawal services) that do not impose fees and charges.

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