



23 October 2024

Supervisory Information Circulars

RE: Complaints-handling and Regulatory Expectations

Effective complaints-handling is a key part of treating customers fairly, customer retention/referrals and maintaining market confidence. Effective complaints-handling benefits customers, Regulated Entities ("**REs**"), the Cayman Islands Monetary Authority (the "**Authority**") and the jurisdiction.

This Circular sets out how REs should implement and embed effective complaints-handling policies/procedures within their organization. This will assist REs in addressing complaints effectively and in accordance with the Authority's expectations.

REs are encouraged to review the revised Rule and Statement of Guidance on Internal Controls for Regulated Entities (the "**Internal Controls Rule and SOG**") and the Rule on Corporate Governance for Regulated Entities (the "**Corporate Governance Rule**"), collectively (the "**Rules and SOG**"), both of which were issued by the Authority in April 2023 and became effective on 14 October 2023.

A review of the Rules and SOG will ensure that REs comply with prescribed additional requirements that REs must ensure are incorporated into their complaints-handling framework.

In particular, the Authority highlights the importance of;

1. Section 5.7.5 of the Corporate Governance Rule; and
2. Sections 12.11 & 12.12 of the Internal Controls Rule and SOG.

Section 5.7.5 of the Corporate Governance Rule requires each individual director of the governing body (the "**Board**"), to ensure that any issues and/or complaints submitted to REs are addressed appropriately and in a timely manner. Each concern raised must be appropriately documented

and evidenced that the appropriate related corrective action was taken to address the concern. As such, directors must take an active interest in complaints received and how these are dealt with. This will ensure that Senior Management provides timely information and updates regarding complaints to the Board. The Authority expects that management will be aware of this requirement and act accordingly to assist the Board.

Section 12.11 of the Internal Control Rule and SOG requires REs to have adequate procedures in place for receiving, recording, investigating, monitoring, and resolving complaints. As part of having adequate procedures to receive complaints, the Authority expects that as part of REs "how to file a complaint" information, REs ensure that the information is relevant, reliable, timely, accessible and provided in a consistent format.

The Authority considers it best practice that REs provide contact information for the particular party to whom complainants can raise their concerns. The contact information should include, at a minimum, a name or a position of the person who will receive the information, include an email address, postal address and phone number. It is the Authority's opinion that best practice would ensure that this information is easily identifiable on the RE's website and in their business premises. The contact information should also be included, in an easily identifiable format, within associated contracts and/or terms of business that are ordinarily provided to customers/clients.

For example:

Mr. John Smith,
Email: johnsmith@abccompany.ky
Telephone: 345 123 4567
Postal Address: ABC Company, Road 1, Grand Cayman, KY1-1234

Or

The Complaints Officer
Email: Complaintsofficer@defcompany.ky
Telephone: 345 765 4321
Postal Address: DEF Company, Road 2, Grand Cayman, KY1-1234

The Authority has received complaints related to REs where the complainants have informed the Authority that they were unsure who to complain to, who was dealing with their complaint, what to expect in terms of the next steps and a lack of updates on the process of complaints submitted. In instances like this, where REs are failing to provide the requisite information to complainants for complaints to be processed through the RE's own internal complaints process, complainants tend to refer such matters prematurely directly to the Authority and/or express dissatisfaction through public avenues such as social media. This reduces the RE's ability to rectify the issue(s) firsthand and invariably leads to a longer three-way process/investigation involving the complainant, the RE and the Authority. Where complainants resort to expressing their dissatisfaction through public avenues, this can increase the RE's reputational risk and may also lower customer confidence in the financial system within our Islands.

Section 12.11 of the Internal Control Rule and SOG also requires REs to ensure complaints are handled fairly, consistently, and in a timely manner. In addition, if warranted, that necessary action is taken to sufficiently remediate the control deficiencies highlighted by the complaints if upheld. To comply, the Authority expects REs to establish timelines for the processing of complaints, which is in line with best international practice, and should include:

1. When an acknowledgment email or letter should be sent;
2. How long a standard investigation should take to conclude; and
3. When the final decision letter should be issued.

At the point a complaint is made, the Authority expects REs to furnish the complainant with details of its complaint handling process/procedures. This should include at a minimum:

1. The contact who will be responsible for reviewing and actioning the complaint;
2. The review process and what this might entail;
3. An estimated timescale for the review process; and
4. If deemed necessary following the conclusion of the complaint by the RE, the escalation process for further action by the RE, if one exists.

The Authority considers it best practice that REs provide updates to a complainant on the progress of the complaint investigation, including informing the complainant of any potential delays, as applicable. Further, to ensure best practice, the Authority recommends that REs should communicate the conclusion of the complainant's investigation to a complainant in writing prior to closing the matter.

This will ensure that complainants not only know what to expect from the RE during the complaints process but that complainants are treated fairly and that complaints are dealt with in a consistent and timely manner. In accordance with Section 12.11 of the Internal Control Rule and SOG, REs must establish procedures to track complaints and ensure that complaints received from multiple channels are logged and the process towards resolution is tracked until the issue is concluded. The REs should ensure that adequate formal training on complaint-handling is provided to relevant staff upon joining the RE and on an ongoing basis.

Section 12.12 of the Internal Control Rule and SOG expresses the level of importance the Authority requires REs to attach to complaints and the management information derived from this. Complaints should be taken seriously until information disproves the complaint and should be investigated and addressed by experienced and knowledgeable employees or officers of the REs.

Complaints should be investigated independently by staff of sufficient seniority. Reference should be made to Section 8.9 that requires an RE to demonstrate a commitment to ensuring that activities are conducted by persons with sufficient knowledge, skills, and experience.

Section 12.12 of the Internal Control Rule and SOG requires the Governing Body and Senior Management of REs to periodically receive reports summarising key control issues that have been identified and/or the complaints received. The reports should include information such as the nature of the issues, volume, frequency, trends identified, how the issues were rectified, lessons learned, and disciplinary actions undertaken for non-compliance to ensure the same are properly evidenced. The complaints report should also highlight any identified systemic issues and/or undue override of existing controls in addition to addressing the measures implemented for remediation.

Irrespective of the Rules and Statements of Guidance that relate to complaints and complaints-handling, it is an indisputable fact that financial services industries thrive on market confidence. It is therefore pertinent that REs:

- Are customer focused;
- open and accountable;
- act fairly and proportionately towards customers;
- efficiently rectify when mistakes are made;

- seek continuous improvement; and
- draw lessons from complaints handled by taking the appropriate action to prevent similar complaints reoccurring.

A demonstrable way of achieving the above is by REs implementing and embedding robust complaints-handling policies and procedures that incorporate the Rules and SOG, particularly those mentioned in this circular, and ensuring that such procedures are supported by both Senior Management and the Board.

Additionally, the Authority encourages REs to include within its complaints policies and procedures redress mechanisms for timely reimbursement or compensation to complainants for financial and non-financial losses, where necessary based on the circumstances of the complaint. To ensure all customers and clients are treated fairly, it is recommended that the policy should also provide for redress towards all impacted customers, not just those who make a complaint, where the identified deficiency/failure is recurring or systemic.

To ensure that an RE's complaints procedure is successful, it is best practice that each RE's Board and Senior Management establish a tone at the top of their organisation that encourages the customers to express their dissatisfaction with the service received. This includes ensuring that customers are fairly treated and are not penalised for submitting a complaint, especially when the complaint is against the RE's staff. By adopting such a culture, this will help RE's to identify internal control deficiencies and ineffectively controlled risks that require rectification in accordance with Section 12.10 of the Internal Control Rule and SOG.

A previous complaints handling supervisory circular was published on the Authority's website on 13 March 2024 summarising the results and key themes identified. RE's are encouraged to review the circular and consider possible enhancements that can be incorporated into their complaints management framework.

The Authority will be assessing compliance with the Rules and SOG during future onsite inspections and during the investigation of any complaint by the Authority or when otherwise brought to the attention of the Authority. It is expected that RE's will make the appropriate filings with other regulatory bodies, where required, simultaneously.