

COMPLAINT HANDLING IN CENTRAL BANK FRAMEWORK



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ABOUT THIS FRAMEWORK

This Framework on Complaint Handling in Central Banks is an initiative by the Alliance for Financial Inclusion (AFI) Consumer Empowerment and Market Conduct (CEMC) Working Group, aimed at providing steps on how a Central Bank can address consumer complaints without compromising its role in Consumer Protection and Market Conduct (CPMC) supervision. The task team, led by Moses Musantu (Bank of Zambia) with Mark Mera (Reserve Bank of Vanuatu) and Sangay Dorji (Royal Monetary Authority of Bhutan) as team members, was constituted by the CEMC Working Group to develop the Framework on Complaint Handling in Banks.

A Central Bank acts as a regulatory authority in most countries and plays a vital role, amongst others, in overseeing the payment system and carrying out regulatory and prudential supervision to protect the interest of financial consumers, in order to promote a safe and sound financial system. The latter role of the Central Bank in protecting the interest of consumers is a fundamental requirement in the financial system. Consumers have the right to make comments or raise concerns and expect them to be heard by the authority that they deal with. Without an appropriate feedback mechanism to channel customer complaints, consumer interest may be overlooked. Furthermore, unresolved complaints that are not handled with proper procedures may result in losses for customers or financial institutions, reputational damage of financial institutions, and erosion of public confidence in the financial system. Therefore, a Central Bank would benefit from developing an effective complaint process through excellent complaint handling, solving a problem before it deteriorates, encouraging good decision-making and promoting consumer confidence on the services offered by financial institutions.

The Framework has been prepared with the full understanding of the tradeoff that usually prevail when bank supervisors focus their efforts both on

CPMC supervisory work which is the use of supervisory tools (i.e., market monitoring, onsite and offsite examinations, and enforcement actions) and techniques to implement such tools and on complementary activities which to varying degrees, directly or indirectly, support or inform the supervisory work (e.g., handling complaints, resolving queries, and providing information to the general public or government agencies). This situation is exacerbated by absence of alternative dispute resolution (ADR) bodies such as financial ombudsmen in most jurisdictions.

This Framework was developed bearing in mind that **Central Banks (representing 38 percent of CEMC members) are also responsible for processing and solving customer complaints, besides supervising monetary policy and prudential.**¹ Thirty-three percent of member countries reported that they use government-established institutions to deal with consumer complaints. Equally, eight percent use the Ombudsman office, while 21 percent of CEMC countries do not have a formal system in place to protect consumers. In view of these findings, complaint handling in Central Bank can be an easy starting point to provide necessary protection even before establishing other ADR mechanisms.

Thus, this Framework is aimed at providing guidance on how Central Banks can manage the responsibility of handling consumer complaints in an efficient and effective manner, without eroding the benefits of the core supervisory work of CPMC. The Framework will discuss how to manage limited human resources vis-a-vis complaint handling and supervision, what processes to follow in complaint management, as well as regulations that are needed to effectively conduct this work. In addition, the Framework will outline what sort of financial service providers (FSPs) will be covered under complaint consideration, effective enforcement mechanisms and how the complaint information can inform CPMC supervision planning. Finally, the Framework will discuss the best place to locate the consumer protection supervision function within the Central Bank.

¹ Authors determination based on the assessment of the responses by CEMC members

RULE OF THUMB

For purposes of this framework, only complaints that are from consumers as defined in this framework shall be received and acted upon. A complaint is defined as ‘an expression of dissatisfaction made to an organization, related to its products, or the complaint handling process itself, where a response or resolution is explicitly or implicitly expected’ (The international standard: ISO 10002: Guidelines for complaint management in organizations). It is an expression of dissatisfaction about the provision of, or failure to provide, a financial product or service: (a) which is made to a financial services provider by, or on behalf of, a consumer; and (b) which alleges that, as a result of an act or omission by or on behalf of the financial services provider, the consumer has suffered or may suffer: (i) financial loss; (ii) material inconvenience; or (iii) material distress.

A consumer on the other hand means an individual or a small firm who uses, has used, or is or may be contemplating using, any of the products or services provided by a financial services provider (Ugandan Consumer Protection Guidelines, 2011). It is important that the Central Bank receives complaints also from small businesses because their capabilities are likely to be similar to those of consumers (Guide to Setting Up a Financial Services Ombudsman Scheme (2018). International Network for Financial Services Ombudsman Scheme). Most jurisdictions therefore provide for definitions of small business in relation to turnover and/or staff numbers. In view of the diversity of membership in AFI, this framework will not prescribe the monetary limit or number of staff that constitutes a small business but each jurisdiction based on its national laws and policies on small business will set the parameters.

It must be noted that complaint handling in the Central Bank is not in any way intended to remove this responsibility from the FSPs. Instead, it is designed to be an External Dispute Resolution mechanism, aimed at ensuring customer complaints that are not fully reviewed by FSPs, are adequately reviewed. It is

therefore important for FSP customers to first lodge their complaints with the FSP before escalating the matter to the Central Bank. This instills confidence and trust in the customers towards the financial system. This requirement will also lower the Central Bank’s burden of handling too many complaints.

In order for this intervention to work, the Central Bank should ensure that the FSPs have adequate, clear and efficient internal complaint-handling procedures and systems to resolve complaints registered by consumers against the provider in an effective, prompt, and just manner. In addition, the FSP should ensure that there is a designated senior, or another, employee, where feasible, depending on the size and complexity of the FSP, to administer the internal complaint-handling guidelines. This requirement can be embedded into the legal and regulatory framework.

Additionally, the Central Bank should ensure that the FSP resolves a reported complaint within a given number of days, which should not exceed the maximum period applicable to a third-party external dispute resolution. To determine the required number of days needed for complaint resolution, it is usually ideal to conduct a peer review of the number of days that each FSP has outlined, as per their respective customer complaint procedures. In the event that the Central Bank is the only external dispute resolution authority, the maximum number of days should not exceed the duration set by the Central Bank.

It is also important that FSPs are sensitized on the need to adequately train staff and agents who handle consumer complaints. Furthermore, the FSPs should be made aware that the ultimate responsibility for effective implementation of complaint-handling policies rests on its Board of Directors. The Central Bank should ensure that FSPs, particularly those serving low-income or remotely located consumers, offer adequate channels (including flexible working hours) for consumers to register their complaints without undue access and transportation costs, or waiting times.² Specially tailored channels may also be needed for illiterate consumers, consumers who speak only local dialects, and for the speech- or hearing-impaired.³

2 Financial Stability Board-Consumer Finance Protection with particular Focus on Credit, 26th October, 2011

3 *ibid*

LOCATION OF CONSUMER PROTECTION AND FUNCTION OF MARKET CONDUCT SUPERVISION

The availability of staff to deal with consumer complaint and supervision of FSPs is critical in order to level the playing field between FSPs and consumers of financial services.

There have been different schools of thought regarding where the CPMC supervision function should be located within the Central Banks. There is a consensus among financial consumer protection experts that internal structure arrangements for market conduct regulation and supervision should vary across countries. However, the CPMC function should be independent of prudential supervision in order to avoid conflict in supervisory objectives.

For example, if the consequences of sanctioning a FSP for non-compliance to consumer protection provisions would have an impact on the soundness (or perception of soundness) of the FSP, or if the requirement for a FSP to compensate customers would have an impact on prudential requirements, the prudential supervisors may choose to disregard consumer protection issues in order to minimize the negative prudential impact.

Similarly, a CPMC supervision perspective on marketing practices that improves profitability at the expense of consumers (e.g. charging exorbitant fees and/or pushing the sales of needless products) will be at odds with the prudential supervision perspective on these practices. The former viewpoint will inevitably be negated if the same supervision officials are representing both perspectives. Such conflicts are even more likely to occur in everyday practices if the supervision officers and/or the executives responsible have a stronger affinity towards prudential supervision than for CPMC supervision (e.g. given their training and previous experience). These conflicts provide a crucial rationale for the international good practice of separating prudential and market conduct supervision functions. This understanding is not only theoretical but also practical in every day supervision experience internationally.

However, prudential supervision can provide useful early warning signals for market conduct supervision (e.g. liquidity stress may cause aggressive selling practices towards consumers).⁴ Alternatively, market conduct supervision can also provide useful early

warning signals for prudential supervision (e.g. mass maltreatment of consumers may precede a drop in customer confidence in a FSP, which might threaten its solvency and liquidity). Therefore, a Financial Consumer Protection Supervision Department/Unit should attempt, as much as possible, to maintain separation and independence from the Prudential Supervision Department, while still coordinating with the latter as much as needed.⁵ The coordination may entail information flow as much as the recipient department finds useful and each department's decisions should be taken completely independent from the other (but taken after a non-binding consultation with the other department, where appropriate).

The following are some of the expected high-level benefits of having an overarching CPMC supervisory function within the Central Bank, which is separate from prudential supervision, and having sight on CPMC matters by FSPs:

- a) Consistency in application of CPMC rules, which allows consumers to have equal protection when they acquire a financial product or service, regardless of whether they use a commercial bank or non-bank financial institutions (inclusive of digital finance service providers);
- b) Equal treatment of CPMC risks since same level of skills, systems, supervisory tools and techniques shall be applied, thereby negating any imbalance in the level of CPMC supervision applied to banks versus that applied to non-bank financial institutions;
- c) Prioritization of CPMC supervision through allocation of time and adequate resources, thereby achieving the CPMC supervision goals;
- d) Enhanced coordination and collaboration on CPMC matters with prudential supervision departments and with external stakeholders, such as general consumer protection agencies, telecommunication regulator and other financial sector regulators;
- e) Optimal utilization of limited human resources as they will deal with all manner of CPMC-related matters, regardless of the type of the FSP involved;
- f) Same level of authority as prudential supervision that allows CPMC supervision structure to have an enhanced credibility of CPMC regulation and supervision;
- g) Any conflict between prudential and CPMC goals in a given case can be dealt with in a balanced and transparent manner; and
- h) Greater engagement with FSP Board, Senior Management and Staff on CPMC issues.

4 Financial Stability Board-Consumer Finance Protection with particular Focus on Credit, 26th October, 2011

5 Technical Note: Establishing a Financial Consumer Protection Supervision Department: Key Observations and Lessons Learned in Five Case Study Countries (March, 2014). The World Bank

ALLOCATION OF HUMAN RESOURCES

In consideration of the limited human resources available for CPMC supervision and complaint handling in most Central Banks, it is imperative that a gradual approach to implementation that includes sequencing and prioritization based on actual risks, and supervision opportunities in the marketplace is pursued. There should be officers solely dedicated for complaint management, while other officers should be dedicated for CPMC supervision. However, it is important that officers are flexible to also investigate complaints or supervise FSPs and vice-versa, based on the current assessment of needs.

A person or team should be assigned to take primary responsibility for managing internal complaint control process. This person will be referred to as the 'Complaints Officer' or any other term that the Central Bank deems fit. The staff charged with the responsibility to administer to customer complaints should ensure that they only accept complaints leveled against FSPs licensed by the Central Bank. Secondly, the staff should ensure that the customer has first engaged the FSP concerning the matter before escalating it to the Central Bank. Only when these minimum requirements are adhered to, will the Central Bank receive genuine and credible complaints.

Complaints officers are the most important staff to ensure that the complaints process works well. Complaints officers should:

- > Be able to be sensitive and impartial;
- > Be trained to receive and deal with complaints;
- > In as far as the Central Bank's organogram and reporting lines may allow; a staff in charge of complaints should have access to any officer who may be useful in the resolution of financial consumer complaints; and
- > Have the authority to act to resolve a complaint or to refer the matter to someone who has the authority.

COMPLAINT MANAGEMENT PROCESS

EFFECTIVE COMPLAINT PROCESS⁶

An effective complaint process should aim to achieve the following:

- 1) A user-friendly procedure;
- 2) Complaints are heard and understood;
- 3) Complaints are respected;
- 4) Expectations and apologies are provided, where appropriate;
- 5) Swift action is taken;
- 6) Clear delegation and procedures for staff to deal with complaints, and provide remedies;
- 7) A recording system to capture complaint data;
- 8) The use of complaint data to identify problems and trends; and
- 9) An outcome of improved service delivery in identified areas.

KEY STAGES IN COMPLAINT HANDLING⁷

There must be an effective process for handling complaints. The following key stages in complaint handling should be described within internal procedures:

- a) A complaint should be acknowledged promptly;
- b) The complaint should be assessed and assigned priority, with a decision on who will deal with the complaint and when it should be completed;
- c) If the matter cannot be resolved immediately and a review is required, it should be planned, with consideration of what action needs to be taken to address the complaint and who needs to be consulted;
- d) The review should resolve factual issues and consider options for complaint resolution;
- e) The response to the complainant should be clear and informative, explaining the outcome of the complaint and providing reasons for any decisions made or remedies offered;
- f) The response should include information about other possible remedies, in the event that the complainant is not satisfied;
- g) Any systemic issues that arise as a result of the complaint should be considered and acted upon; and
- h) Action should be taken to record the complaint and its outcome, and to report to management, as appropriate.

6 http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/427/original/effective_complaint_handling.pdf?1349121913

7 ibid

A PROCESS THAT SUITS A CENTRAL BANK⁸

An effective internal complaints process should be “fit for purpose”, designed to meet the particular needs of the Central Bank and proportionate to the number and types of complaints the Central Bank is likely to receive.

The following should be considered when developing the Central Bank complaints process:

- 1) How many and what type of its customers are;
- 2) How customers generally communicate with the Central Bank;
- 3) The types of acts and decisions it is responsible for;
- 4) The level of risk there is if things go wrong;
- 5) How many complaints it is likely to receive;
- 6) How many staff it has; and the
- 7) Resources it can make available to deal with complaints.

The design of the complaint process should:

- 1) Have clear procedures for both staff and complainants to follow;
- 2) Be accessible, with advice available to the public about the complaints system and how to access it;
- 3) Allow for resolution at the lowest level possible, including the ability for front line staff to resolve complaints where appropriate;
- 4) Provide for referral of a complaint to senior staff where necessary, and an ability for a staff member not previously involved in the matter to consider the complaint; and
- 5) Include regular oversight by senior management, with reports provided on complaints received and their outcome, and the information used to improve the services provided by the Central Bank.

STEPS IN LODGING A CONSUMER COMPLAINT WITH THE FINANCIAL SECTOR REGULATOR

The following are steps to be adhered to when lodging a complaint with the Central Bank/Financial Sector Regulator:

1. CUSTOMERS MAY ONLY REFER A COMPLAINT TO THE CENTRAL BANK/FINANCIAL SECTOR REGULATOR AFTER:

They have given an FSP a chance to deal with the matter and the FSP has failed to resolve the matter to their satisfaction within reasonable time limits. The Central Bank should recognize that the first step in resolving consumer complaints is typically an FSP's own internal dispute resolution mechanism. It is normally quicker, less expensive and more effective for a company to resolve complaints themselves. This process also helps to build trust, improve customer relations and strengthen the brand image and reputation of the sector as a whole.

2. THE CENTRAL BANK MAY NOT DEAL WITH THE FOLLOWING:

- > A complainant who does not qualify as a financial consumer dependent on the definition of a consumer per country;
- > A complaint which is not within the ambit of the financial consumer protection legal framework;
- > A complaint with incomplete information;
- > A complaint that was not first reported to the FSP concerned for resolution except where good cause can be shown why the complaint was not dealt with by an FSP in the first place;
- > A complaint that was not reported to the FSP within a reasonable timeframe i.e. six months from the date the complainant received the response from the FSP;
- > A complaint that can best be resolved by a court of law or through any other available dispute resolution process;
- > A complaint which is awaiting resolution or has already been resolved by any other institution, such as a Court of law;
- > A complaint where legal action has already started (mediation, arbitration etc);
- > Complaint on institution not regulated by the Central Bank or financial sector regulator;
- > A similar complaint from the same customer that has been resolved previously by the Central Bank there is no new added information; and
- > A complaint that involves the exercise by a FSP of its commercial judgments on lending policy, for example refusal to give a loan, unless there was failure on the part of an FSP to follow the correct procedures and this unfairly affected the complainant.

3. MODES OF FILING A COMPLAINT

Any person who alleges that a FSP is engaged in any practice prohibited under the CPMC legal framework, directive, regulation or rules may lodge a complaint with the Central Bank through any of the following modes:

- (i) Verbally: by telephone or physical visit to the Central Bank offices from Monday to Friday (excluding public holidays). A verbal complaint shall be submitted in writing by the complainant through a prescribed form and signed by the Complainant. As for complaints received via telephone, the designated complaint officer shall take note of the complaint, followed by a written confirmation to be signed by the Complainant;
- (ii) In writing; or
- (iii) Other means: any other means of communication, either via email, letter or any other mode that is reasonably understood/accepted by the Central Bank.

⁸ http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/427/original/effective_complaint_handling.pdf?1349121913

The complainant may sign a complaint form if the complaint is lodged through a physical visit. A complaint received verbally or by any other means will be duly lodged even if the complaint form is not signed, and shall be recorded in the Complaint's Register in a prescribed manner.

4. RECEIVING A COMPLAINT

When a complaint is received, it should be considered whether the matter could be resolved quickly and easily by the person receiving the complaint. If it can, this should be done and details of the complaint should be logged for further analysis. Otherwise, the complaint should be referred to the Complaints Officer and acknowledged promptly. If a complaint is received in person, or over the telephone, the staff member receiving the complaint should consider if a written complaint is needed. A written complaint may not be needed if the matter can be resolved quickly. Where necessary, assistance should be provided to the complainant to submit their complaint in writing. A record should be kept for all complaints regardless of the form it was received (written or not), noting the date the complaint is received, and a file opened if necessary.

5. VALIDITY OF COMPLAINT

The Central Bank may consider any one of the factors listed below as constituting a valid complaint:

- (i) Time should be a factor when lodging a complaint;
- (ii) Evidence;
- (iii) Full disclosure of information of the complainant; and
- (iv) Any other information incidental to the abovementioned.

In order to assist the Central Bank carry out an effective investigation, every complaint shall be accompanied by sufficient evidence that supports the allegations of a breach of the CPMC laws, directive, regulation or rules. The Central Bank may decide against investigating a complaint if there is insufficient evidence and the complainant will be notified accordingly.

Evidence submitted to the Central Bank shall remain in its custody, unless otherwise decided.

6. WITHDRAWAL OF A COMPLAINT

- i. A complainant may make a request in writing to withdraw a complaint lodged before the Central Bank by stating the reasons. The Central Bank shall exercise its discretion in making a decision on whether or not to grant the request for withdrawal, taking into account factors such as public interest or any other factor that may be determined according to the case at hand;
- ii. The Central Bank may deny a request for withdrawal of a complaint in order to serve public interest. In this regard, the Central Bank may consider whether

there is an overriding public interest that it needs to serve, which outweighs the Complainant's interest in the requested withdrawal of complaint. Such public interest could be determined by considering whether there are many other complaints of the same or similar nature against the same FSP, or whether the conduct in question has had or is likely to have a negative impact on a large scale within the financial market;

- iii. Where a request for withdrawal of a complaint is denied, the Central Bank shall retain any evidence submitted in support of such complaint for purposes of carrying out its investigations;
- iv. The Central Bank will inform the reasons of its decision to the complainant in writing.

7. PROCESS OF DEALING WITH A COMPLAINT

- i. Once a complaint is lodged with the Central Bank and there are reasonable grounds to believe that there is, or is likely to be, a contravention of any provisions of the CPMC rules, the Head of the CPMC Department shall authorize the investigation and assign a reference number thereto;
- ii. The Central Bank shall notify the FSP of the investigation through a letter. The purpose of the letter is to inform the FSP being investigated about the specific allegations against them and also to provide them with an opportunity to respond to the said allegations within a reasonable timeframe. i.e. 10 working days;
- iii. The Central Bank shall screen the complaint(s) based on prioritization and importance. The priority of the complaint received will be determined on the basis of merit and urgency, i.e. if it is highly sensitive, sensitive, or general.

8. COMPLAINT RECORDING

It is important that Central Banks keep a record of complaints received from customers against FSPs. Another set of each complaint record should be kept for the purpose of complaints statistics that is received from general consumer protection authorities and the FSPs themselves. These records are critical to determine the level of adherence to the CPMC rules by FSPs and to determine the nature and frequency of CPMC violations. Additionally, the records will be used to conduct CPMC supervisory planning works. The complaint record should be stored securely to preserve confidentiality and saved in a designated place within the Central Bank's record keeping system, so that it can be easily retrieved when necessary.

As a starting point, the officer responsible for complaint handling within the Central Bank must maintain a Complaint Register, either a hardcopy or online, which indicates the records of complaints received.

The registers should include, but not be limited to, the followings:

- > Date of complaint received;
- > Name and contact details of the complainant or authorized customer;
- > Representatives;
- > Brief description of the complaint;
- > Name and designation of the officer who handled the complaint;
- > Resolution status; and
- > Settlement date.

9. PRIORITIZATION OF COMPLAINTS⁹

The Central Bank must prioritize the complaint on the basis of the gravity and sensitivity of the matter involved. For this purpose, complaints received shall be classified into the following categories and shall be marked as **H.S.** for Highly Sensitive, **S** for Sensitive or **G** for General.

NATURE OF COMPLAINT	CATEGORY
<ul style="list-style-type: none"> > Allegations of fraud forgery. > Allegations that require prompt action, failing which may cause great loss to the complainant. 	Highly Sensitive (HS)
<ul style="list-style-type: none"> > Allegations of rude behavior or bribery. > Allegations related to the different prioritized products of the bank. 	Sensitive (S)
<ul style="list-style-type: none"> > Other kinds of complaints 	General (G)

FSPs shall take necessary actions based on the priority of the complaints.

10. DETERMINATIONS AND ACTIONS¹⁰

Action to resolve a complaint may be required where it has been identified that:

- (i) There was an unreasonable delay;
- (ii) Inadequate advice, explanation or reasons were provided;
- (iii) FSPs policies or procedures were not followed correctly;
- (iv) There was an inadequate or unfair process followed;
- (v) There was a factual or legal error;
- (vi) There was unprofessional behavior or misconduct by an official;
- (vii) The act or decision complained about was unfair or unreasonable; or
- (viii) The act or decision was just plain “wrong”.

In resolving a complaint, any remedy should be fair and reasonable, and should aim, as far as possible, to restore the complainant to their original position.

Complaints can be resolved in a number of ways, including by:

- > Acknowledging what happened;
- > Providing an explanation, assistance or reason;
- > Providing an apology;
- > Taking immediate action, if there was a delay;
- > Reconsidering or changing a decision;
- > Amending records;
- > Providing a financial remedy for loss; and
- > Changing policies, procedures or practices.

11. RIGHT OF APPEAL

Any FSP not satisfied with the decision of the Central Bank should have a right to appeal the decision. For instance, in Uganda, complainants who are not satisfied with the resolution by the Central Bank of Uganda can appeal to the International Centre for Arbitration and Mediation in Kampala (ICAMEK) for arbitration purposes. Additionally, the complainants can consider the Courts of Law (with Small Claims Court for claims less than UGX10million (about US\$2700) and no lawyers allowed in; and High Court (Commercial Division).

12. REPORT WRITING AND FORMAT

The Analyst shall consider all the representations made by relevant parties and use the appropriate assessment tests to finalize the investigation and prepare the Investigation Report. Kindly refer to the Report Format as presented below:

- > **Cover page:** State the title of the department, date, and a statement indicating that the Report is on, e.g. Unfair Business Practice against XX Financial Services Limited.
- > **Introduction and Background:** Provide the name of the complainant, the FSP complained against and the details of the alleged conduct/complaint.
- > **Legal Contravention and Assessment Tests:** State the legislative text that describes the breach of the alleged conduct; state also the assessment tests that shall be used to analyze the complaint.
- > **Investigations Conducted:** State what investigation tools were used, i.e. meetings, telephone calls, or site visitations.

9 Adapted from the Bangladesh Bank Guidelines for Customer Services and Complaint Management

10 http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/427/original/effective_complaint_handling.pdf?1349121913

- > **Findings:** State what the relevant parties submitted (complainants and FSP); state also other findings from, e.g. research, industry submission or any documentation/evidence that the investigation relied on; also state whether the FSP has been investigated before on a similar allegation.
- > **Analysis of alleged Conduct:** Analyze the allegations using the assessment tests identified. When analyzing the alleged conduct, endeavor as much as possible to use the findings or evidence as submitted or observed. On each assessment, ensure that it is stated whether the FSP breached any section of CPMC rules.
- > **Conclusion:** Provide the overall conclusion of the investigation on whether the FSP breached the CPMC rules or not.
- > **Recommendation:** Provide the appropriate recommendation, as per the established conclusion of the case, in order to facilitate decision-making management.

13. MANAGING UNREASONABLE COMPLAINT CONDUCT¹¹

Most complainants act responsibly. However, some complainants are difficult to satisfy and occasionally, the conduct of some complaints can be challenging due to:

- > Unreasonable persistence;
- > Unreasonable demands;
- > Unreasonable arguments;
- > Unreasonable behavior; and
- > Unreasonable lack of co-operation.

It is important to remember that even when a person's conduct is unreasonable, they could have a valid complaint, which should be handled appropriately. The key to managing an unreasonable conduct of a complainant is to give fair consideration to the complaint, while ensuring there is no undue imposition on the Central Bank or staff, when doing so.

14. LEARNING FROM THE COMPLAINT¹²

A good complaint-handling process allows a Central Bank to learn from the problems that arise and take steps to improve internal processes. Therefore, it is important to build a system of review. The complaints received, their outcome, and any proposed internal improvements should form part of the Central Bank's reporting and planning processes. Senior management can then identify any systemic issues, serious risks, or areas for improved practices, and subsequently, take appropriate action.

ENFORCEMENT ACTION

The enforcement action that is imposed on an erring FSP should instigate a specified behavior change or change in the practices of the said FSP. The number and type of corrective measures may vary widely across countries.

However, it is important that the emphasis should be on preventive, both on a:

- i. Micro-level (the sanction should be sufficient to discourage the FSP from further violations), and
- ii. Macro- level (to act as a deterrent for other FSPs).

Additionally, the range of measures should be applied in accordance with the gravity of a situation. It is therefore critical for the Central Bank to have a deliberate step to monitor the compliance of its sanctions during the offsite and onsite examination of the FSPs.

¹¹ http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/427/original/effective_complaint_handling.pdf?1349121913

¹² *ibid*

HOW COMPLAINT INFORMATION CAN BE USED TO INFORM CONSUMER PROTECTION AND MARKET CONDUCT SUPERVISION PLAN

Consumer complaint information helps to protect other consumers in a number of ways.

Firstly, it helps to identify key areas for service improvement, such as systems, product and services. It is a great form of feedback and provides a fair measure of customer satisfaction. Secondly, it identifies needed improvement in policies and procedures to protect financial consumers. Thirdly, it improves consumer communication and keeps FSP accountable to deliver services that they have promised. Consumers can highlight vital information that is lacking, erroneous or out-of-date. Finally, it keeps senior management informed of what is not right. Consumer complaints often elevate important news straight to the top-level management to be heard and addressed. Senior management can quickly learn about service issues that are important to consumers.

Also, consumer complaints play a valuable role in helping regulators to identify those areas where current legislation/regulation may be lacking and where intervention is needed. A key indicator of successful consumer protection practices is the time taken to resolve consumer complaints. This helps demonstrate the level and cost of resource required, and how best to handle the complaint.

Additionally, there should be a closer collaboration between complaint case handlers and supervisors, as the information from a complaint is key to informing supervisory work. The supervisor should analyze the statistics on information that comes from:

- > Complaints lodged with the Central Bank;
- > Complaints lodged with financial institutions (through the compulsory semi-annual reports);
- > Complaints lodged with alternative redress mechanisms (such as a financial ombudsman);

The analysis should identify root causes and propose steps to reduce the occurrence of most typical complaints, and those with largest customer impact. The Central Bank should further ensure that it receives data of the complaints from FSPs for off-site monitoring.

This data should be used for:

- > Planning on-site work;
- > Developing risk assessment of the financial institutions;
- > Planning supervisory work;
- > Designing or updating the regulatory framework; and
- > Identifying issues where improved financial capability may lower reasons for complaints.

CREATION OF THE OFFICE OF OMBUDSPERSON

Developing countries should work towards establishing an Office of the Ombudsperson in a gradual manner, subject to the availability of resources. A Financial Ombudsperson should be efficient in managing consumer complaints and usually has strong enforcement powers.

A financial services ombudsman scheme should follow fundamental principles of independence to secure impartiality, clarity of scope and powers, accessibility, effectiveness, fairness, transparency and accountability (Guide to setting up a Financial Services Ombudsman Scheme, International Network for Financial Services Ombudsman Scheme). These principles are not compulsory standards but are based on widely accepted international standards.

INTERNAL AND EXTERNAL COLLABORATION

It is critical that the CPMC Department/ Unit collaborates closely with prudential departments, as they tend to complement each other. Additionally, the Central Bank should collaborate with the general consumer protection bodies, telecommunication regulator and other financial sector regulators to ensure that consumers of financial services and products are effectively protected from unfair business practices by FSPs.

General consumer protection bodies enforce the general consumer protection laws by solving problems and disputes between a consumer and an enterprise registered in their jurisdiction. Thus, general consumer protection bodies are instrumental in providing the Central Bank quality information relating to the total number, nature and outcome of complaints received against FSPs. This information is critical for the supervision of financial consumer protection, as it will be used in the development of consumer risk profiles, as well as the development of targeted preventive remedies.

The Central Bank should prioritize holding regular meetings with the general consumer protection body and conducting joint consumer empowerment activities and investigations, as per the signed Memorandum of Understanding (MoU). The meetings will improve information sharing between the two institutions, which are paramount to enhance the supervisory function. This collaborative work between the Central Bank and general consumer protection body is reflected in the one existing in Peru, where SBS (Central Bank) and INDECOPI (General Consumer Protection Agency) have entered into a MoU, which contains comprehensive provisions about information-sharing and a monthly liaison meeting.

In addition, when other regulatory bodies undertake financial consumer protection supervision, they will benefit from the coordination and communication between agencies. For example, this will include coordination and communication with telecommunication regulators, with respect to digital financial services, which will prove to be useful in understanding matters of connectivity, system stability, cases of disruption, and overall service quality.

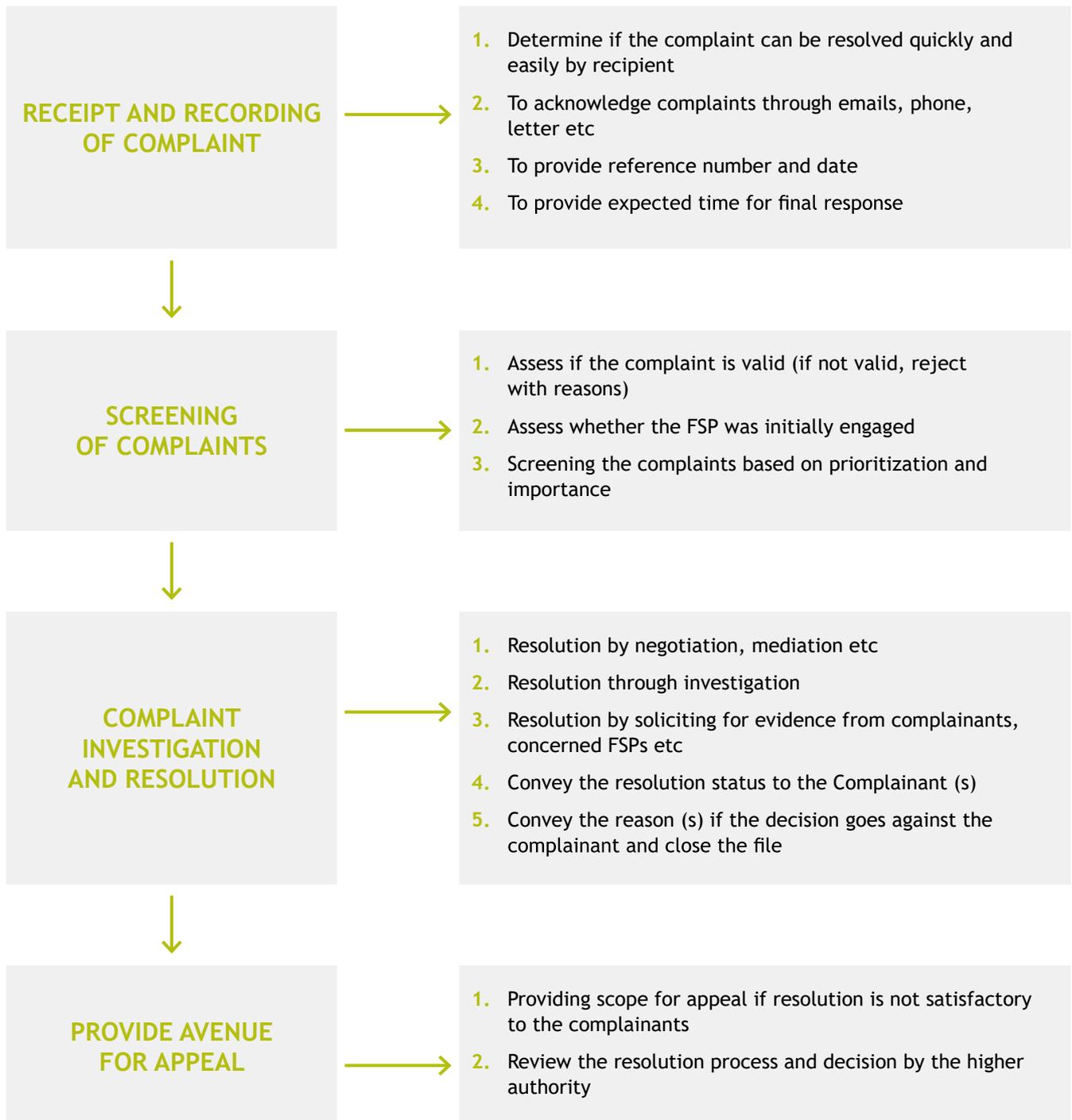
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ABBREVIATIONS

- ADR** Alternative Dispute Resolution
- AFI** Alliance for Financial Inclusion
- CEMC** Consumer Empowerment and Market Conduct
- CPMC** Consumer Protection and Market Conduct
- CGAP** Consultative Group to Assist the Poor
- FSPs** Financial Service Providers

APPENDIX 1: PROCESS MAP FOR COMPLAINT HANDLING



APPENDIX 2: STATUS OF COMPLAINT HANDLING BY CENTRAL BANKS

COUNTRIES CONDUCTING COMPLAINT HANDLING¹³

Of the 61 CEMC Working Group member countries assessed, 77.1 percent of the countries, responded to have some form of government institution that receives and helps with solving financial consumer complaints, while 23 percent responded to have no system in place to handle consumer complaints (refer to Chart 1).

The countries assessed, based on region, include; Latin America and the Caribbean (18 countries), East and Southeast Asia (6 countries), Eastern Europe and Central Asia (6 countries), Middle East and North Africa (7 countries), Pacific (5 countries), South Asia (8 countries) and Sub-Saharan Africa (11 countries). *See Appendix 3 for the list of countries assessed.*

THE COUNTRIES IN THE EAST AND SOUTHEAST ASIA, AND LATIN AMERICA AND THE CARIBBEAN HAVE FORMAL SYSTEMS OF HANDLING FINANCIAL CONSUMER COMPLAINTS.

Chart 2 shows that 100 percent of the East and Southeast Asia countries, which are also members of the CEMC Working Group, handle their financial consumer complaints, followed by 94 percent of countries in Latin America and the Caribbean.

In contrast, 46 percent of countries in Sub-Saharan Africa do not have a formal system of handling consumer complaints, followed by 40 percent of countries in the Pacific.

THE CENTRAL BANKS OR REGULATORY AUTHORITIES ARE MOSTLY RESPONSIBLE FOR PROCESSING AND SOLVING CUSTOMER COMPLAINTS.

As shown in Chart 3, 38 percent of countries in the CEMC member countries use Central Banks as an institution responsible to receive and address consumer complaints.

Thirty-three percent of countries use government-established institutions, such as the Consumer Affairs Commission in Jamaica, Servicio Nacional Del Consumidor (SERNAC) in Chile, the National Commission for Protection of Financial Services Users in Mexico and the Consumer Protection Agency in Egypt, to name a few, to handle and solve customer complaints.

Equally, eight percent use the Ombudsman office, while 21 percent of countries do not have a formal system in place to protect consumers.

THE MAJORITY OF COUNTRIES IN THE SUB-SAHARAN AFRICA REGION DO NOT HAVE A FORMAL SYSTEM (OTHER THAN THE COURTS) TO HANDLE CUSTOMER COMPLAINTS, FOLLOWED BY THE PACIFIC, SOUTH ASIA, AND EASTERN EUROPE AND CENTRAL ASIA.

The assessment of the information submitted by CEMC member countries revealed that 38 percent of the countries in Sub-Saharan Africa do not have a formal process for handling financial consumer complaints, followed by 15 percent, respectively, in the Pacific, South Asia, and Eastern Europe and Central Asia.

Latin America and the Caribbean countries use a lot of ombudsman (60 percent) and government institution (40 percent), compared to the 26 percent use of Central Banks, to address financial consumer complaints.

There are no financial ombudsmen in the Pacific, East & Southeast Asia, Sub-Saharan Africa, and Eastern Europe and Central Asia. The East and Southeast Asia countries have a well-established system to handle customer complaints through government institutions (10 percent) and Central Banks (17 percent).

¹³ Kindly note that the data assessed was drawn from the AFI Data Portal

CHART 1: PERCENTAGE SHARE OF TOTAL CEMC MEMBER COUNTRIES ASSESSED.

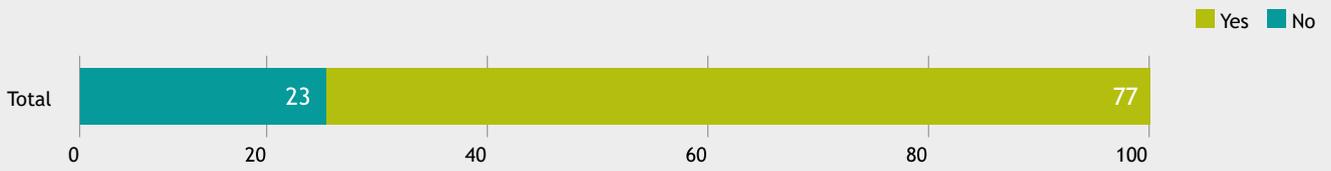


CHART 2: PERCENTAGE SHARE OF CEMC MEMBER COUNTRIES BY REGION THAT HANDLES CONSUMER COMPLAINTS.

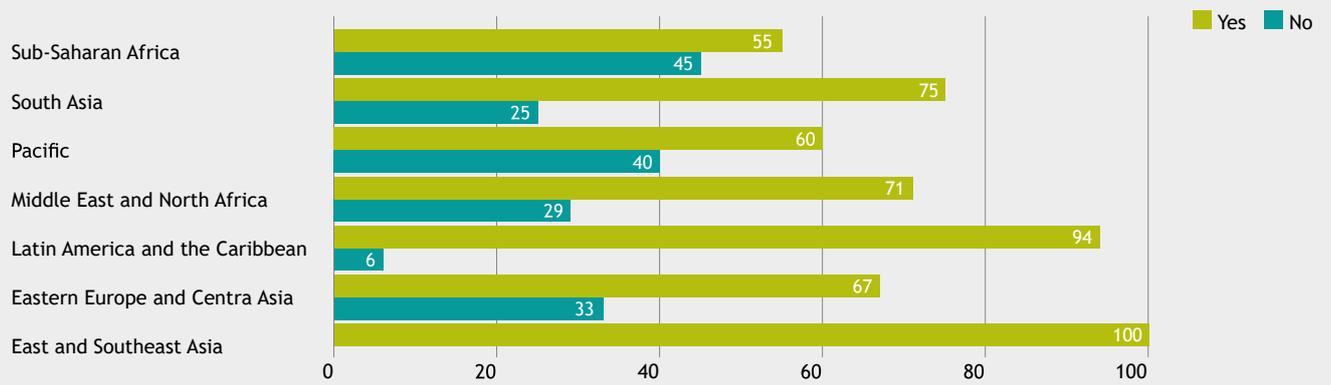
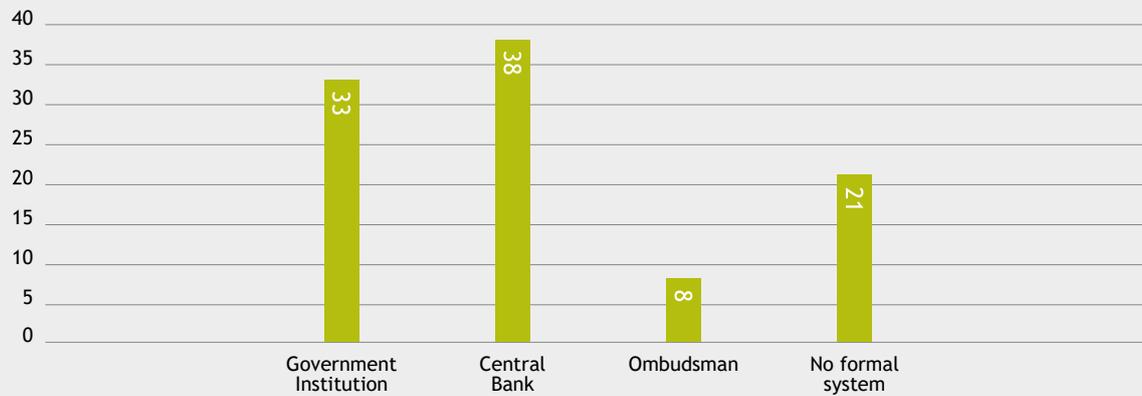


CHART 3: PERCENTAGE SHARE OF THE TYPE OF GOVERNMENT INSTITUTION THAT HANDLES CONSUMER COMPLAINTS IN CEMC MEMBER COUNTRIES



APPENDIX 3: LIST OF COUNTRIES REVIEWED

EASTERN EUROPE AND CENTRAL ASIA

Armenia
Belarus
Kyrgyz Republic
Macedonia
Russia
Tajikistan

SUB-SAHARAN AFRICA

Angola
Cameroon
Equatorial Guinea
Kenya
Mauritius
Mozambique
Nigeria
Burundi
Niger
Togo
South Africa

LATIN AMERICA AND THE CARIBBEAN

Bolivia
Brazil
Costa Rica
Dominican Republic
Ecuador
Chile
Colombia
El Salvador
Guatemala
Honduras
Jamaica
Mexico
Nicaragua
Panama
Paraguay
Peru
Trinidad and Tobago
Uruguay

MIDDLE EAST AND NORTH AFRICA

Egypt
Tunisia
Turkey
Jordan
Morocco
Palestine
Yemen

EAST AND SOUTHEAST ASIA

China
Indonesia
Malaysia
Philippines
Thailand
Mongolia

SOUTH ASIA

Bangladesh
India
Maldives
Nepal
Sri Lanka
Afghanistan
Bhutan
Pakistan

PACIFIC

Fiji
Samoa
Timor-Leste
Tonga
Vanuatu

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