

THEMATIC REVIEW

Complaints
Handling

2024

DFSA.AE

SUMMARY

Complaints and the handling of Complaints are important indicators of Dubai Financial Services Authority (DFSA) Authorised Firms' (AFs) culture and conduct. Clients should be able to make a Complaint in an easy and straightforward way, and with confidence that it will be dealt with promptly and fairly. Having robust Complaints handling arrangements in place should be a priority for all AFs.

AFs are required to have adequate policies and procedures for the investigation and resolution of Complaints made against them by Retail Clients, as well as the manner of redress, if applicable. AFs must have written policies and procedures for handling Complaints from Retail Clients and ensure that Complaints are handled, fairly, consistently, and promptly.

AFs are also required to have adequate policies and procedures in place to record Complaints made against them by Professional Clients. Depending on the nature, scale, and complexity of their business, it may be appropriate for AFs to have in place a suitable Complaints handling procedure for Professional Clients. We were pleased to see that in many cases, AFs are going further than our requirements and adopting the same approach to handling Complaints for both Professional and Retail Clients.

Using a combination of surveys, desk-based analysis, and visits to AFs, we identified key themes and findings in a range of areas, detailed in the next pages of this Thematic Review (Review). We expect all AFs to consider these key themes and findings, along with the good practice observed, in the context of their specific activities, obligations and approach to Complaints handling. We also expect all AFs to take note of this Review and consider further improvements to their systems and controls where appropriate. In future engagements with the DFSA, AFs may be requested to demonstrate how they did so.

We also remind AFs of their continuing obligations to ensure that the DFSA is promptly informed of any significant events or anything else relating to the AF of which we would reasonably expect to be notified.



SCOPE AND METHODOLOGY

The Review assessed the full lifecycle of Complaints handling from the identification of Complaints, through to resolution and governance. It also provided us with an insight into culture at AFs.

Complaints are a valuable source of intelligence, allowing AFs to identify trends or issues through root cause analysis. Effective Complaints handling is also key to enable AFs to continuously improve their products and services for the benefit of Clients and to remain competitive. However, we have historically observed a consistently low level of Complaints being reported by AFs. This is against a backdrop of an increasing AF population and a growing number of Clients and activities across all sectors.

The Review aimed to:

- assess AFs' approaches to Complaints handling and dispute resolution, including compliance with Chapter 9 of the DFSA Rulebook General Module (GEN);
- identify good practice and areas for improvement for wider communication to AFs with a view to promoting effective Complaints handling; and
- identify outliers and instances of material non-compliance for further action.

The Review was undertaken in three phases:

PHASE ONE

Survey

In line with our risk-based supervisory approach, we developed a survey which was issued to all AFs and aligned with specifically developed Key Risk Indicators.

PHASE TWO

Desk-based review

At a high level, the population was split into two cohorts: Retail and non-Retail. A desk-based review of the 580 completed surveys (a 93% completion rate) was undertaken.

This allowed us to assess survey responses and identify those AFs that may pose a higher risk to our objectives.

PHASE THREE

Follow-up visits

We undertook follow-up visits to 29 AFs to further analyse their survey response and approach to recognising and dealing with Complaints.

We took a consistent approach for all AFs to enable appropriate comparisons and benchmarking.

KEY THEMES AND FINDINGS

1. Written Complaints procedures

Overview

AFs must have adequate policies and procedures for the investigation and resolution of Complaints made against them by Retail Clients, and the manner of redress, if applicable. The policies and procedures for handling Complaints must be in writing and provide that Complaints are handled, fairly, consistently, and promptly.

AFs must also have adequate policies and procedures in place for the recording of Complaints made against them by Professional Clients. Depending on the nature, scale, and complexity of their business, it may be appropriate for AFs to have in place a suitable Complaints handling procedure for Professional Clients.

Areas for improvement

The Review identified that the majority of AFs had appropriate written Complaints handling policies and procedures in place. Where we identified weaknesses with written policies and procedures, we noted the following specific examples:

- policies that inappropriately excluded Complaints concerning fees, costs, and other charges;
- policies and procedures that failed to include the process for recognising or handling oral Complaints;
- policies and procedures that did not include the process and individual responsibilities for recommending and approving redress or other resolution outcomes;
- procedures that lacked appropriate detail on the steps to be taken by relevant staff when investigating a Complaint;
- procedures that did not define “complaint” as used by the AF in practice; and
- policies and procedures that had not been reviewed or updated for several years.

We also identified several AFs who had misalignments between their written Complaints handling policies and procedures and the actual practices they followed.

Good practice

Our Review identified some specific examples of good practice related to written Complaints handling policies and procedures including:

- AFs applying their Retail Clients Complaints handling policies and procedures to Professional Clients, providing a higher standard of protection to those Clients and having a single set of policies and procedures to apply and train staff on;
- remuneration policies for Relationship Managers and other frontline staff taking account of and being aligned to Complaints handling in line with the AF’s policies and procedures; and

- AFs reviewing and where appropriate, updating their policies and procedures following our survey being issued.

Action Required:

AFs should review the adequacy of their Complaints handling policies and procedures to ensure they are appropriate to the nature, scale, and complexity of their business activities, as well as their size and organisational structure.

2. Complaints recognition

Overview

A Complaint is defined in the DFSA’s rules as “Any oral or written expression of dissatisfaction from a Client to an AF in connection with the provision of, or failure to provide, a Financial Service to the Client.” The DFSA expects AFs to have in place a clear definition of what constitutes a Complaint and one which is used consistently throughout its policies and procedures, is understood by all staff and is at least as comprehensive as the DFSA definition.

Areas for improvement

While almost all AFs responding to our survey reported that they used the DFSA definition of a Complaint, our Review identified that a number of those AFs failed to consistently apply this definition (or a definition that was at least as comprehensive) throughout the AF’s Complaints handling policies and processes.

The Review also identified further failings relating to the appropriate recognition of Complaints including:

- a substantial number of AFs did not consider expressions of dissatisfaction resolved at the point of receipt as Complaints and therefore failed to appropriately record or report those Complaints;
- AFs using inconsistent definitions of a Complaint throughout their compliance and Complaints handling policies and procedures and other AF documentation; and
- AFs failing to include their definition of a Complaint within their policies and procedures.

We observed one AF that carved out what it defined as ‘operational issues’ from its recording of Complaints and another that would only record a Complaint if there was an identified reputational or financial risk.

We also identified a small number of AFs placing inappropriate barriers in the way of Clients making Complaints. Those AFs either failed to record any oral expressions of dissatisfaction, and would only acknowledge a Complaint had been made if the Client had explicitly stated in writing that they were complaining, or required complainants to submit their Complaint using unnecessarily complicated processes.

Good practice

Despite our Review identifying that the majority (68%) of AFs in our visit population need to take action to improve their approach to Complaints recognition, we did identify specific examples of good practice including:

- some AFs properly recorded all Complaints including those resolved at the point of receipt;
- Governing Body and senior management took steps to ensure staff members could recognise a Complaint and how to record and escalate it;
- Complaints received by AFs being viewed in a positive manner and actively using them as an opportunity to improve their service offering;
- sample checks and more general ongoing monitoring of client communications by the Compliance Officer to proactively identify Complaints;
- using Client satisfaction surveys to solicit feedback and give Clients an opportunity to express dissatisfaction; and
- using Artificial Intelligence (AI) to monitor emails and client communications for words or tone which may indicate dissatisfaction which were then sent to the Compliance Officer for review.

Action Required:

AFs should review the definition of a Complaint that they use to ensure that the definition is at least as comprehensive as the DFSA definition and is being consistently applied across all of its policies and procedures.

AFs should also review the adequacy of their Complaints handling policies and procedures to ensure that all expressions of dissatisfaction from a Client, whether written or oral, and however they are received, are appropriately recognised, and recorded as Complaints and handled appropriately.

3. Governance arrangements

Overview

AFs are required to have a corporate governance framework in place that is appropriate and has regard to the nature, scale and complexity of their business and structure. Corporate governance arrangements should underpin the sound and prudent management and oversight of an AF's business and protect the interests of its Clients and stakeholders.

To comply with this requirement, an AF must establish and maintain arrangements to provide its Governing Body and senior management with the information necessary to organise, monitor and control its activities, to comply with legislation in the DIFC and to manage the risks accordingly.

Areas for improvement

The Review identified that, in respect of Complaints being recorded by AFs (and notwithstanding our finding above in respect of Complaints recognition), the majority of AFs had appropriate governance arrangements in place in relation to the recording, investigation and where appropriate resolution of Complaints. Where we identified failings in governance arrangements, we noted the following specific examples:

- AFs' Complaints handling arrangements giving rise to potential conflicts of interest and/or a lack of independence in investigating Complaints which had not been appropriately identified or managed;
- some AFs failing to report any information on Complaints to their Governing Body and senior management;
- some AFs were unable to demonstrate that they were reporting an appropriate level of information on Complaints to their Governing Body and senior management to facilitate proper oversight of and management of the risks;
- one AF reported inconsistent and misaligned information on Complaints to its Governing Body and its senior management; and
- some AFs were outsourcing the investigation and handling of Complaints to Group entities without effectively overseeing the activities of the outsourced function.

Good practice

Our Review also identified some specific examples of good practice related to Complaints handling governance including:

- Governing Bodies and senior management taking an active interest and involvement in Complaints handling procedures, including by monitoring Complaints received and resolution outcomes as standing agenda items at Board meetings. This set the right tone from the top about the importance of recognising and effectively dealing with Complaints;
- AFs having policies and procedures that clearly defined how the severity of a Complaint should be classified to ensure that the correct governance framework could be consistently applied to Complaints; and
- AFs incorporating Key Performance Indicators for staff relating to compliance with the AF's Complaints handling policies and procedures, as part of performance management.

Action Required:

AFs should review the adequacy of their current Complaints handling governance arrangements to ensure they are appropriately aligned to the nature, scale, and complexity of their business activities and that the Governing Body and senior management are provided with the necessary information on Complaints to organise, monitor and control its activities.

4. Volume of Complaints

Overview

AFs must have in place mechanisms to accurately record the volume of Complaints received from Clients and to keep those mechanisms under regular review. Our Review identified significant issues with the accuracy of the figures being reported to the DFSA on Complaints, including discrepancies between the volume of Complaints reported in our survey and the regulatory reporting.

Areas for improvement

Overall, we have observed a very low level of Complaints being reported by AFs. Specifically, we have seen a high number of AFs reporting no Complaints at all, but also a low volume of Complaints being reported by those AFs who have received Complaints.

Considering the issues that we have identified with the recognition of Complaints by AFs, we believe the extremely low level of Complaints reported is likely to be a significant underrepresentation of the true number of Clients who are contacting AFs to express dissatisfaction. Many AFs told us during our engagement that, had they recorded and reported all expressions of dissatisfaction made by their Clients as Complaints, their own reported figures would have been a lot higher.

As confirmed under Finding 2 – Complaints recognition, our definition of a Complaint is clear and includes all written or oral expressions of dissatisfaction in connection with the provision of, or failure to provide, a Financial Service. Therefore, we expect all AFs, which are not already doing so, to start recording and reporting all expressions of dissatisfaction as Complaints with immediate effect. We expect to see the volume of reported Complaints increasing following this clarification and we will be monitoring this over the coming months.

Good practice

Our Review identified specific examples of good practice related to volume of Complaints including:

- Governing Bodies and senior management being inquisitive and challenging when either a low level of Complaints or no Complaints had been recorded by the business; and
- Using AI to assist with Complaints recognition, often driven by business models which involved a high volume and frequency of Client engagement.

Action Required:

AFs should review the adequacy of their mechanisms to accurately record the volume of Complaints received from Clients and ensure that the volume of Complaints recorded and reported is an accurate reflection of the expressions of dissatisfaction received. AFs should address this as a matter of priority.

5. Complaints outcomes

Overview

We expect AFs to use the feedback and lessons learned from Complaints handling or audit findings to continually enhance and improve their approach to Complaints handling. This includes actively considering, and where appropriate, making changes to the wider business and its operations to incorporate any relevant feedback or lessons learned.

Areas for improvement

The Review identified some AFs that have not put in place adequate systems and controls which would allow them to identify and remedy any recurring or systemic problems identified from Complaints.

Good practice

Our Review identified specific examples of good practice related to Complaints outcomes including:

- Some AFs using the outcome of root-cause analysis (RCA) to implement improvements to address the underlying drivers of Complaints and avoid recurring issues in the future; and
- One AF using the outcome of RCA and engaging a third-party to review a particular recurring issue and propose solutions to address the issue.

Action Required:

AFs should review their approach to Complaints outcomes to ensure that any recurring or systemic problems arising from Complaints are adequately identified and remedied.

6. Complaints monitoring

Overview

We expect AFs to have in place mechanisms to accurately monitor the Complaints they receive and to keep those mechanisms under regular review.

Incorporating Complaints monitoring within the wider Compliance Monitoring Programme (CMP) is particularly important for AFs to ensure that their affairs are managed effectively and responsibly by senior management. Furthermore, subjecting such systems and controls to periodic reviews ensures that they remain fit for purpose.

Areas for improvement

The Review identified several AFs who failed to adequately monitor Complaints. Specific examples include:

- Governing Bodies and senior management failing to exercise appropriate accountability and ensuring that AFs' culture and behaviour are aligned with recognising the value of Complaints and achieving good Client outcomes;
- Governing Bodies and senior management not using MI to monitor Complaints handling and resolution, including adherence to timescales, internal processes, and/or rule requirements;
- AFs failing to monitor Complaints on a regular basis as part of the CMP; and
- AFs not considering Complaints handling as a potentially relevant area of focus as part of the initial scoping of internal audit reviews.

Good practice

Our Review identified specific examples of good practice related to Complaints monitoring such as:

- Governing Bodies and senior management defining risk ratings for Complaints to determine the governance framework applicable; and
- AFs reconciling Complaints for any potential discrepancies with related Group entities, including their Booking Centres.

Action Required:

AFs should review their approach to Complaints monitoring (including but not limited to its CMP) to ensure Complaints received are accurately monitored and that the mechanisms to do so are regularly reviewed.

7. Training and staff awareness

Overview

We expect AFs to have mechanisms in place to ensure staff are appropriately trained to identify Complaints as well as the process to follow for escalating Complaints for further investigation.

Providing appropriate training to staff allows AFs to ensure employees remain competent and capable of performing the functions assigned to them and knowledgeable in the requirements of the legislation applicable in the DIFC.

Areas for improvement

The Review identified some AFs who failed to ensure their staff are adequately trained in relation to Complaints' identification and/or escalation process. Specific examples included:

- Complaints handling not being included as either part of training for staff onboarding or on an ongoing basis; and
- AFs failing to update their Complaints handling training materials to reflect changes made to either Complaints handling arrangements or the AF's business model.

Good practice

Our Review identified specific examples of good practice relating to training and staff awareness such as:

- training material including information about how to recognise, record and escalate a Complaint;
- AFs leveraging insights gained from its Complaints monitoring to improve the Complaints handling training to better reflect the AF's specific business model and the associated risks; and
- AFs using testing to ensure the effectiveness of their Complaints handling training and to further support any link to staff remuneration policies.

Action Required:

AFs should review their approach to staff training and awareness in relation to their Complaints handling arrangements (including but not limited to identification of Complaints and escalation processes).

8. Record keeping

Overview

AFs are required to maintain adequate records of the Complaints they receive and such records should be kept for a minimum period of six years from the date of receipt.

It is crucial for AFs to adequately document all Complaints they receive. This provides an audit trail of, inter alia, the steps taken by the AF to resolve such Complaints and their outcome. It also enables AFs to ensure consistency in their approach and identify themes that might trigger changes as part of the lessons learned.

Areas for improvement

The Review identified some AFs that failed to maintain adequate records in relation to Complaints they received. Specific examples included:

- Inability by one AF to demonstrate that the Complaints register, for Retail Clients, included all the required elements, including but not limited to, substance of the Complaint, the AF's response and other relevant correspondence, as well as the action taken to resolve each Complaint; and
- failure by AFs to appropriately maintain a Complaints register (in one case this was only rectified following engagement and/or intervention from the DFSA during a risk assessment).

Good practice

Our Review identified specific examples of good practice related to record keeping, including AFs maintaining robust and complete records demonstrating that Complaints had been properly handled and appropriate remedial action had been taken.

Action Required:

AFs should review their approach to record keeping in relation to Complaints and ensure adequate records are kept for a minimum of six years.





About the DFSA

The Dubai Financial Services Authority (DFSA) is the independent regulator of financial services conducted in and from the Dubai International Financial Centre (DIFC), a purpose-built financial free zone in Dubai. The DFSA's regulatory mandate covers asset management, banking and credit services, securities, collective investment funds, custody and trust services, commodities futures trading, Islamic finance, insurance, crowdfunding platforms, money services, an international equities exchange and an international commodities derivatives exchange.

In addition to regulating financial and ancillary services, the DFSA is responsible for administering Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) legislation that applies to regulated firms and Designated Non-Financial Businesses and Professions in the DIFC.

 www.dfsa.ae