

Feedback on Consultation Paper 17 **2021 Publication of Summary Complaints Statistics**

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A: Summary

The Channel Islands Financial Ombudsman (CIFO) published Consultation Paper 17: 2021 Publication of Summary of Complaints Statistics on 16 December 2020, with a closing date of 5 February 2021. Notifications of the consultation paper were sent to stakeholder representatives.

The consultation paper sought views on the proposed publication of summary complaint statistics. Three submissions were received from stakeholders in response to this consultation.

B: Consultation overview

The consultation invited comments on the proposed 2021 Publication of Summary of Complaints Statistics. Starting in May 2021 with the publication of CIFO's 2020 Annual Report, CIFO will commence publishing summary complaints statistics broken down by financial services provider (FSP). The 2020 Annual Report will include summary complaints statistics for 2020. CIFO's website will have searchable summary complaints statistics for the years 2018, 2019, and 2020. The proposed FSP-named summary complaints statistics will provide information regarding the number and nature of complaints cases closed and the outcome for complaints cases closed. Complaint cases will not include those complaints withdrawn or found to be out-of-mandate at the point of initial referral to CIFO.

C: Summary of responses

Three submissions were received from financial services providers in response to the consultation.

The first submission was from BWCI Group ("BWCI") and included three comments as follows:

Proposed publication format

- BWCI felt that one aspect of CIFO's proposed annual report formatting of the summary complaints statistics appeared misleading. In Annex 1 of the consultation paper, CIFO's proposed annual report publication, the "Outcome in Favour of Complainant" column (same or less compensation than originally offered by FSP) this is shown as an outcome in favour of the Complainant. BWCI believed this should be shown as an outcome in favour of the FSP, since the complainant had gained nothing and the FSP had lost nothing (other than the CIFO case fee). BWCI suggested combining this column with the final column (Outcome in favour of FSP).
- CIFO clarified that, in this circumstance, the customer's complaint was found to have merit. That is the conclusion of the review by CIFO and therefore CIFO's statistics will reflect that as complaint against an FSP that was found to have merit (i.e., in favour of the customer).

However, there are times when the amount of compensation CIFO deems warranted to compensate a customer for the economic loss or material distress & inconvenience caused had already been offered by the FSP yet refused by the customer who presumably thought that they deserved more or did not have confidence that the FSP's offer appropriately reflected the loss incurred. In such circumstances, CIFO considers it fair and reasonable to break out the sub-set of upheld complaints to effectively give credit to the FSP for having already offered as much or more compensation than CIFO considered warranted in the circumstances of the complaint. The fact that the FSP had previously made what CIFO considers a reasonable offer to settle the matter does not change the fact that the underlying complaint was found to have merit, it merely goes to the FSP's reasonable conduct in trying to resolve the matter before CIFO was engaged by the customer. CIFO wished to have the statistics appropriately reflect this distinction.

CIFO will not distinguish case outcomes to credit FSPs for equal or greater settlement offers received after CIFO's process was engaged by the customer.

- After receiving the response above from CIFO, BWCI agreed the categorisation made sense and offered further comment that the additional context CIFO provided around what constitutes an "outcome in favour of the Complainant" would be helpful and suggested the use of "complaint upheld" as a possible alternative wording.
- CIFO concluded that, given the previous use of the current wording "outcome in favour of the Complainant" and the desire to use plain language to the extent possible, the term "upheld" is seen as being less easily understood by stakeholders so the current wording is preferred.

Proposed publication format, Annex 5, CIFO guidance on complaint categorisation

- BWCI felt that the product breakdown for pensions could cause confusion. BWCI was concerned that it was unclear what CIFO would be including under the product descriptor "International QROPS", particularly since most products marketed as QROPS are now former QROPS and do not have QROPS status. BWCI felt there was now more focus on QNUPS products, which would come within the "private pension product" category but might also involve "financial advice". A further concern was around the extension of the categories beyond "Private Pension Product" and "Employer Pension Scheme" leaving scope for a lack of clarity and referring more to the "primary issue" rather than the "product" itself. BWCI felt that an additional explanation of this categorisation would be helpful.
- CIFO agrees and will remove the "financial advice" and "international QROPS" product/service options from the list under pensions leaving only "private pension products" and "employer pension scheme" product options. CIFO will also delete the product option of "investment advice" as that is better captured by using a modified "mis-selling/unsuitable advice" issue option going forward. CIFO's guidance on complaint categorisation has been modified accordingly.

Confidentiality proposal

- BWCI commented that it may also be useful to add some clarification to the proposed approach to confidentiality. FSP's statistics about their own firm remain their statistics and cannot be subject to CIFO's confidentiality. An FSP may be required to disclose this information to a regulator or wish to include it in new client proposals.
- CIFO clarified that it is not CIFO's intention to restrict the provision of information to the regulator and will further clarify that in CIFO's approach. However, CIFO felt it would be inappropriate for an FSP to take the CIFO case file data (for the period to be published) provided by CIFO for the FSP's advance notice and confirmation and have that same assembled data released publicly before the industry data is published by CIFO in accordance with the new legislation. CIFO noted that this proposed confidentiality restriction is consistent with the approach taken in these circumstances by the Financial Ombudsman Service in the UK ("UK FOS"). CIFO can appreciate the desire of FSPs to include such data in client proposals, especially if objectively positive and/or if it will compare favourably with other competitors. However, it would be appropriate for such data provided by CIFO for review to be kept confidential pending publication of the summary complaint statistics data by CIFO. CIFO also mentioned that there is no restriction proposed on an FSP's use of historical FSP complaint data already published by CIFO.
- After receiving the response above from CIFO, BWCI appreciated the intent of the confidentiality provision and suggested the wording of the confidentiality provision be amended as follows to include the bolded text:

"FSPs will therefore be expected to refrain from disclosing the summary complaints statistics **provided in confidence by CIFO** until CIFO has published the data."

CIFO agrees with this suggestion.

The second submission received from Rossborough Financial Services Limited ("Rossborough") had seven comments, six of which were a confirmation that Rossborough had "no" feedback on CIFO's suggested consultation questions. However, one comment provided an observation related to the proposed publication format. Rossborough suggested that CIFO include a banding for the number of clients each firm has compared to the number of complaints each firm has shown in the published statistics. It was felt that this would help differentiate between small, medium, and large size entities and put the number of complaints into perspective. i.e., 0-500 clients, 500 - 10,000 or over 10,000.

CIFO reviewed this suggestion to include the number of customers to provide additional context to the summary complaints statistics and spoke with the representative from Rossborough. While CIFO appreciates how such data could assist in contextualising the summary complaints statistics, there are several issues that would need to be overcome:

1. There is no public record of customer numbers for all FSPs included in the summary complaints statistics; industry stakeholders would need to agree to provide the data and provide it in a timely and comparable basis for each reporting period;
2. There is no standard definition of a 'customer' and the count would presumably need to be based on the definitions of eligible complainants in CIFO's mandate in order to provide a valid comparison;
3. Customer count is only one piece of contextualising information in isolation as nature of financial services business, product mix, service delivery model, and geographic scope of operation can also be contributing factors.

Given the complexities associated with this suggestion, Rossborough agreed with CIFO that incorporation of this suggestion was impractical at this time.

The third submission from a bank had several comments, three of which were a confirmation that the bank had "no" feedback to CIFO's proposed consultation questions and one clarified the preferred nomenclature for their bank entities for CIFO reporting purposes. However, three comments provided the following feedback:

Data contextualisation

- The bank stressed that the contextualisation of the published data would need to be very prominent and clear to ensure that those with larger customer bases are recognised as such. The bank also posed the question why CIFO are looking to take a different approach to publication of complaint statistics from the approach of UK FOS who do not have a search criterion at firm level.
- CIFO took note of the approach taken by UK FOS to publishing FSP-level data. See: <https://www.financial-ombudsman.org.uk/data-insight/half-yearly-complaints-data>.

The tables CIFO proposes to publish with our annual report, as set out in CP17, are roughly comparable to what UK FOS publishes.

CIFO's Board of Directors embraced the proposed search engine approach for online statistics publication to align to what CIFO previously implemented for published Ombudsman decisions and case studies and to better enable access to information about complaint statistics and themes that cut across all FSPs. This approach is consistent with that employed by several other financial ombudsman schemes.

FSP identification

- The bank had a concern that by CIFO providing granular analysis on a case-by-case basis for different complaint types that this might generate spurious complaints from Claim Management Companies ("CMCs") on behalf of customers, leading to increased complaint volumes for the FSP and CIFO.
- CIFO already publishes industry level statistics that clearly highlight issues that predominate in financial sector complaints about providers based in the Channel Islands. The corresponding product and issue details for individual FSPs will therefore show lower volumes and will merely be a sub-set of the industry figures. While CIFO is aware of the issues arising from the operation of CMCs in the UK market, particularly in connection with payment protection insurance complaints, CIFO does not believe that the more granular data proposed for publication will increase the probability of CMCs engaging in the Channel Islands marketplace.

CIFO's future publications

- The bank suggested publishing: complaints rejected by CIFO; why they are not considered for review; the cost to FSPs for complaints not upheld by CIFO; and elapsed time taken in days for CIFO to reach an outcome to each published complaint. The bank says consideration could be given for the publication of operational KPIs for the ombudsman in terms of the elapsed time taken to resolve those cases.
- CIFO already publishes industry level statistical data on rejected complaints and the reasons for rejection in both quarterly data (see www.ci-fo.org/news-publications/statistics/) and in the statistical sections of CIFO's annual reports (see www.ci-fo.org/news-publications/annual-report/). Publication of such data at the level of individual FSPs is not currently contemplated. If industry stakeholders wish to have such data added to future changes in statistical data publication, they are invited to contact CIFO with the specifics of what would be wished for and the rationale for publishing the data from the perspective of broad stakeholder interest.
- CIFO notes the comment regarding publication of elapsed time taken to resolve complaints and CIFO performance against specific KPIs. Both of these are under current review by CIFO's Board of Directors.

D: Next steps

CIFO have reviewed the written responses to the consultation paper and a final publication structure will be developed and approved by CIFO's Board of Directors to take effect upon the publication of the 2020 CIFO Annual Report.

To avoid possible confusion regarding what summary complaints statistics will be published, CIFO will not be including “withdrawn” or “out of mandate” complaints within firms’ “CIFO Period Statements of Closed Complaints by FSP” data sent out for FSP review in advance of publication as these outcome categories **will not** be published with the summary complaints statistics. If FSPs wish to receive this additional complaints data from CIFO to reconcile their own records, FSPs can contact CIFO directly at enquiries@ci-fo.org to request this.
