

CIFO guidance on document provision by financial services providers

Introduction

The Channel Islands Financial Ombudsman (CIFO) has statutory powers to request information from financial services providers (FSPs) to assist with the investigation of a complaint¹ and FSPs are required by law to assist CIFO in its review of a complaint². This guidance is published in response to requests from FSPs for guidance on the type of documentation CIFO requires. To assist FSPs with identifying the required customer file or related information to provide, it sets out the different types of information or documentation that, depending on the specific nature and circumstances of the complaint, CIFO may require for review.

The information relevant to a specific complaint can vary widely. This list is not intended to be exhaustive so FSPs are asked to not limit information provided to what is explicitly set out in this guidance. FSPs are also reminded that the relevance of specific information to a complaint review is for CIFO to determine. FSPs are therefore asked to provide all information that may be relevant to CIFO's review (and are encouraged to provide accompanying commentary as to the FSP's own assessment of the relevance of the information provided). FSPs are also asked to take appropriate care to retain information that could be required by CIFO's review of a complaint. If an FSP is unable to provide information considered relevant to a complaint, this can lead to a CIFO conclusion based on an adverse inference due to the FSP's inability to provide the information. FSPs may therefore wish to refamiliarise themselves with the time limits associated with CIFO's statutory remit³.

Banking complaints

- Signed and dated product or service agreement(s) setting out the terms and conditions and pricing
- Any information required of the customer to support their application or ongoing access to the product or service
- Additional material setting out terms and conditions, pricing, product or service features, time-limited offers, warnings, etc.

¹ See Section 19 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014> and Article 19 of the Financial Services Ombudsman (Jersey) Law 2014 https://www.jerseylaw.je/laws/enacted/Pages/L-14-2014.aspx#_ednref19

² See Section 13 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014> and Article 13 of the Financial Services Ombudsman (Jersey) Law 2014 https://www.jerseylaw.je/laws/enacted/Pages/L-14-2014.aspx#_Toc394071702

³ A complainant should bring a complaint to us within 6 months of the financial service provider's final response to their complaint. The complaint event should be less than 6 years ago or no more than 2 years from when the complaint knew or ought to have known about the event. The event that led to the complaint must have happened on or after 1 January 2010 (for Jersey financial service providers) or 2 July 2013 (for Guernsey/Alderney/Sark financial service providers).

- Marketing or other product or service information material (print, online, or in-branch) relating to the product or service
- Account statements for the relevant time period
- All email and written correspondence with the customer
- Any recordings of telephone conversations with the customer
- Any video footage from branch, ABM, or point of sale at the relevant time
- Any information relied upon in the making of a decision affecting the customer's interests
- Any notes of FSP staff in relation to the customer or any meetings or other communication with the customer
- Any internal operations report showing a change (including date, time, and nature of the change) to the customer's product or service
- Screenshots of online screens showing the information provided and the instructions followed for certain online transactions and proof they were in place at the relevant time
- Screenshots of any fraud warnings and proof they were in place at the relevant time
- Loss calculation and underlying information/assumptions to enable assessment of losses claimed by customer

Investment/Funds complaints

While much of the information required in connection with investment/funds complaints will be similar to that required for banking complaints noted above, the following are common investment-specific types of information.

- Introduction information including notes on suitability
- Licensing category of the FSP to establish that the provision of the products/services involved was authorised by the relevant regulator
- Customer know your client (KYC) information
- Product disclosures and fact sheets including risk ratings
- Suitability assessment of investments/platforms recommended/sold
- Internal FSP processes, investment committee minutes, notes and reports to assess the suitability of investments/platforms for customers
- Investment plans
- Portfolio investment performance analyses (historical) or projections (future-oriented)
- Individual investment performance analyses (historical) or projections (future-oriented)
- FSP risk assessments, whether conducted internally or by external parties related to specific investments or possible internal failings that could affect customers
- Loss calculation and underlying information/assumptions to enable assessment of losses claimed by customer

Trust/Pension complaints

While much of the information required in connection with trust/pension complaints will be similar to that required for banking and investment complaints noted above, the following are common trust/pension-specific types of information.

- Trust deeds to include; include all addendums, amendments and any other document which has made a change to the original Trust Deed
- Internal FSP processes, investment committee minutes, notes and reports to assess the suitability of investments for customers

- Internal FSP processes, committee minutes, notes and reports to assess the performance of outsourced services involved in the assessing or acquiring suitable investments on behalf of pension beneficiaries
- FSP risk assessments, whether conducted internally or by external parties related to specific investments or possible internal failings or failings by outsourced service providers that could affect customers
- Contracts, letters of appointment and service level agreements (SLAs) with outsourced service providers
- Loss calculation and underlying information/assumptions to enable assessment of losses claimed by customer

Insurance complaints

While much of the information required in connection with insurance complaints will be similar to that required for banking complaints noted above, the following are common insurance-specific types of information.

- The full wording of the insurance policy, including any other documents which policy clauses may include by reference
- The written decision and basis of the decision regarding the insurance claim
- Any insurance adjuster or expert opinions or estimates obtained by the insurer or its representative for the purpose of assessing the claim
- The documents completed by the customer or the customer's agent/representative
- The specific insurance policy, legal or regulatory provision relied upon by the insurer in rejecting the claim
- Evidence that the insurance policy was legal for distribution in the jurisdiction where it was sold
- Evidence that the independent advisor/broker was properly licensed to advise on/sell the insurance policy in the jurisdiction where it was sold
- Loss calculation and underlying information/assumptions to enable assessment of losses claimed by customer

Non-Bank Money Services/Credit complaints

While much of the information required in connection with non-bank money services/credit complaints will be similar to that required for banking complaints noted above, FSPs should assess what other business-specific types of information could be required by CIFO's review.

On-going Review

The Principal Ombudsman will keep this guidance under review in the light of cases received by CIFO and will publish updated guidance if necessary. This version is correct at 17 March 2021. Any comments or suggestions on this guidance may be sent to consultations@ci-fo.org.