



## Procedure

### Complaints Against the Authority

#### 1. Statement of Objectives

To set out and establish the procedure that the Authority will follow upon receiving a complaint regarding the way in which the Authority has carried out its functions.

#### 2. Coverage and Scope of the Procedure

2.1 Pursuant to section 6(2)(f) of the Monetary Authority Law (2004 Revision) in carrying out its regulatory and cooperative functions, the Authority is obliged to, *inter alia*, recognise the need for transparency and fairness on the part of the Authority.

2.2 For the purposes of this procedure, “complaint” means any expression of dissatisfaction about the manner in which the Authority has carried out its functions under the Monetary Authority Law and the regulatory laws, or the conduct of the Authority’s management, employees or persons acting on its behalf in the purported exercise of such functions.

2.3 This procedure provides for receiving and dealing with complaints about the way in which the Authority has acted or omitted to act (ie: allegations of misconduct), and includes complaints alleging, but not limited to:

- i. mistakes and lack of care;



- ii. unreasonable delay;
- iii. unprofessional behaviour;
- iv. bias; and,
- v. lack of integrity.

2.4 For the purposes of this procedure, the Authority does not include the Board of Directors of the Authority. Any complaints regarding the actions of the Board members should be directed to the Chairman of the Board. Any complaints regarding the actions of the Board as a whole should be directed to the Governor-in-Cabinet of the Cayman Islands.

2.5 The following types of complaints are also excluded from this procedure:

- Complaints in relation to the laws and regulations under which the Authority acts. Such complaints should be directed to the Managing Director and Chairman of the Board of the Authority.
- Complaints in relation to the substance (as opposed to the manner) of any action or requirement (or decision to take no action) or exercise of discretion by the Authority in its regulatory and supervisory roles. Such complaints should be directed to the Managing Director and Chairman of the Board of the Authority. Relevant regulatory laws may also provide a route of appeal.



- Complaints connected with the operations or management of licensees (or persons operating without a proper licence). If such a complaint arises, it should be directed to the licensee (or relevant person) first, with a copy or separate letter to the Head of the relevant Supervisory Division and copied to the Managing Director.
  
  - Complaints connected with contractual or commercial disputes involving the Authority and not connected to the way it has performed its functions. These should be directed to the Chief Financial Officer of the Authority and copied to the Managing Director.
  
  - Complaints about the Authority's relationship with its employees. If such a complaint arises, it should be directed to the Human Resources Manager with a copy to the Managing Director.
- 2.6 Any person directly affected by the way in which the Authority has carried out its functions may file a complaint in writing to the Managing Director.
- 2.7 All complaints to the Authority should identify the person making the complaint, (who must have a direct interest in the subject matter of the complaint, or be instructed by the person who has a direct interest in the subject matter), be made in writing, and signed. The Authority will not accept anonymous complaints. The Authority will not normally investigate a complaint until the complainant has submitted the complaint in writing. There may be situations where the



complaint needs to be resolved quickly, where an oral complaint might initiate an investigation, however, in all cases, a formal written complaint must be submitted as soon as reasonably possible.

- 2.8 The complaint should provide all relevant particulars concerning the substance of the complaint, together with copies of relevant documents.
- 2.9 Complaints will be dealt with by the Authority as soon as reasonably possible after the complaint has been lodged with the Authority. The Authority will not generally investigate complaints where it is clear that the complainant has been aware of the circumstances giving rise to the complaint for over six months but failed to make a complaint to the Authority, unless there are clear and extenuating circumstances.
- 2.10 The Authority is also subject to the Complaints Commissioner Law 2003, and a written complaint about the way in which the Authority has carried out its functions may also be made to the Office of the Complaints Commissioner.

### 3. Procedure

- 3.1 The Authority will acknowledge receipt of the complaint within five working days of receipt of the complaint and will send the complainant details explaining how the complaints procedure works.



- 3.2 In each case, a complainant will be advised that the fact that the Authority accepts a complaint and/or initiates an investigation into the matters alleged is not an admission of any fault, wrong-doing, error, or legal liability on the part of the Authority.
- 3.3 The Authority will arrange for an initial investigation by its own staff of any complaint. That investigation will be carried out by two senior members of staff, appointed by the Managing Director, who have not previously been involved in the subject matter of the complaint. Those senior members of staff shall investigate the circumstances of the subject matter giving rise to the complaint, and shall try to resolve the matter to the complainant's satisfaction if reasonably possible. The Authority will seek to resolve the complaint as quickly as possible, which would normally be within one month.
- 3.4 If the Authority concludes that a complaint is well-founded, it will tell the complainant in writing what it proposes to do to remedy the matters of complaint and take the steps to fulfil what it proposes to do, subject to its responsibilities and obligations not to disclose information, including the provisions contained in the Monetary Authority Law (2004 Revision), and Confidential Relationships (Preservation) Law (1995 Revision), all as amended or replaced.
- 3.5 If the Authority concludes that a complaint is not well-founded, it will explain its reasons in writing.



- 3.6 If the complainant is still dissatisfied after the Authority informs the complainant of the outcome of its investigation, the complainant's further remedies include making a complaint to the Complaints Commissioner, or seeking judicial review.
- 3.7 If the Complaints Commissioner has commenced an investigation in relation to a complaint against the Authority, the Authority will also provide the results of its own investigation and any actions taken or to be taken pursuant to sections 3.3 and 3.4 above to the Complaints Commissioner.

#### 4. Reporting

For each fiscal year, the Managing Director will submit a report to the Authority's Board of Directors on the complaints submitted and the results of its findings. The report may include information concerning trends in the subject matter and on general lessons that the Authority should learn.