



**BANK OF GHANA**

**CONSUMER RECOURSE MECHANISM GUIDELINES FOR FINANCIAL SERVICE PROVIDERS**

**FEBRUARY, 2017**

**This directive is in pursuance of the Banks and Specialised Deposit-Taking Institutions Act 2016 (Act 930). The Directive shall apply to all banks, non-banking institutions, E-money issuers and their Agents specialised deposit-taking institutions, financial holding companies and affiliates of banks, non-banking institutions, specialised deposit-taking institutions, financial holding companies regulated by the Bank of Ghana.**

## Contents

<b>PART 1 – PRELIMINARY</b>	<b>5</b>
1. Title	5
2. Application	5
3. Interpretation	5
4. Objectives	6
<b>PART II - PRINCIPLES</b>	<b>7</b>
5. Act Honestly	7
6. Unfair Treatment	7
9. Redress Mechanisms	7
<b>PART III – AWARENESS AND ACCESSIBILITY</b>	<b>7</b>
10. Provision of Adequate Information	7
11. Recourse Material Display	8
12. Availability of Information	8
13. Complaint Channels	8
14. Cost	9
15. Third Party Agents	9
16. Acknowledgement of Complaints	9
17. Reception and Resolution	9
<b>PART IV – COMPLAINT HANDLING AND RESOLUTION PROCESS</b>	<b>9</b>
18. The Three Level Process	9
<b>PART V – COMPLAINTS MECHANISMS INSTITUTED BY THE FINANCIAL SERVICE PROVIDER</b>	<b>10</b>
19. Establishment of Written Procedures	10

20.	Requirement to Receive Complaints	10
21.	Right to Complain to the Financial Service Provider	10
22.	Traceability of Complaints	10
23.	Equal Treatment of Complaints	11
24.	Minimum Complaint Information Required	11
25.	Translation of Complaints	11
26.	Provision of Relevant Information	11
27.	Confidentiality	12
28.	Resolution Period	12
30.	Provision of Resolution in Writing	12
<b>PART VI – COMPLAINTS MECHANISMS AT THE BANK OF GHANA</b>		<b>13</b>
31.	Right to Appeal	13
32.	Assignment of Same Complaint Unique Number Upon Appeal	13
33.	Resolution Period for Appeals Received At The Bank Of Ghana	13
34.	Resolution Notification Information Required	13
35.	Provision of Relevant Information During Investigations	14
37.	Right to Take Legal Action	14
<b>PART VII – MONITORING AND REPORTING</b>		<b>14</b>
38.	Quarterly Reporting	14
39.	Quarterly Reporting Deadlines	14
40.	Reporting Information Required	14
<b>PART VIII – OTHER REQUIREMENTS FOR THE FINANCIAL SERVICE PROVIDERS</b>		<b>15</b>
41.	Training Requirements	15
42.	Board of Directors Responsibilities	15
43.	Senior Management Responsibilities	15
<b>PART IX – OTHER DISPOSITIONS</b>		<b>15</b>

<b>44.</b>	<b>Limitation of Period for Acceptance of Complaints</b>	<b>15</b>
<b>45.</b>	<b>Decision of the Court</b>	<b>16</b>
<b>46.</b>	<b>Implications of Taking Case to Court</b>	<b>16</b>
<b>47.</b>	<b>PART X – SANCTIONS</b>	<b>16</b>
<b>48.</b>	<b>ANNEXES</b>	<b>16</b>

## Introduction

In pursuance of Section 3 (2) (d) and Section 92 (2) (a) (xi) of the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930), the Bank of Ghana hereby on this 10<sup>th</sup> day of February, 2017 issues the **Consumer Recourse Mechanism Guidelines for Financial Service Providers, 2017**, for compliance by all banking and non-banking institutions regulated by the Bank of Ghana.

## PART 1 – PRELIMINARY

### 1. Title

This directive may be cited as the Consumer Recourse Mechanism Guidelines for Financial Service Providers, 2017.

### 2. Application

The Directive shall apply to all banks, non-banking institutions, specialised deposit-taking institutions, financial holding companies, affiliates of banks, non-banking institutions specialised deposit-taking institutions and financial holding companies regulated by the Bank of Ghana.

### 3. Interpretation

In this Directive unless the context otherwise requires, words used have the same meaning as that assigned to them in the applicable law or as follows:

- **“Advertisement”** means any form of public notice which is an attempt to invite or induce, directly or indirectly, any person to purchase or acquire an interest in a product or service.
- **“Agent”** means a person or an entity that has been contracted by a financial service provider to provide services to the end customers of the financial service provider on behalf of the financial service provider under a valid agency agreement.
- **Arbitration** means the submission of a dispute to the Bank of Ghana whose officer(s) shall act as arbitrator(s), for the purpose of having a dispassionate hearing, after which the arbitrator(s) shall make a finding.
- **“Bank of Ghana”** means the Bank of Ghana continued in existence in section 1 of the Bank of Ghana Act, 2002 (Act 612).
- **“Branch”** means any location where a financial service provider or its representatives provide any products or services to individual consumers.
- **“Consumer”** means an individual, a group or a firm that uses, has used, or may be contemplating using, any of the products or services provided by a financial service provider.
- **“Complainant”** means a consumer, customer, or potential customer, or a duly authorised representative of a customer who presents a complaint to a financial service provider.
- **“Complaint”** means any oral or written expression of dissatisfaction about the provision of, or failure to provide, a financial product or service:

- (i) Which is made to a financial service provider by, or on behalf of, a consumer and
- (ii) Which alleges that as a result of an act or omission by or on behalf of the financial service provider, the consumer has suffered or may suffer:
  - a) financial loss
  - b) inconvenience; or
  - c) distress.
- **“Court”** means the systems of judicature within Ghana.
- **“Customer” means** an individual, group or an entity that maintains an account and/or has a business relationship with the financial service provider.
- **“Duly authorised representative”** means a person with proven mandate to act on behalf of the consumer.
- **“Electronic money or e-money”** means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions, and which is accepted by a natural or legal person other than the e-money issuer.
- **“E-money account”** means the account held by an e-money holder with an e-money issuer for conducting e-money transactions.
- **“E-money issuer or EMI”** means an entity issuing e-money and could be either be a Dedicated EMI licensed under the guidelines for E-Money Issuers in Ghana or a deposit-taking financial service provider authorised under the E-Money Guidelines.
- **“E-money holder”** means a person who has a claim on an e-money issuer for e-money issued by the same.
- **“E-money user”** means a person who uses e-money for making financial transactions either with or without opening an e-money account.
- **“Financial service providers”** means all individuals, institutions or entities regulated by the Bank of Ghana who provide financial services and products to the public.
- **“Pre-agreement Statement”** means a document that highlights the key characteristics of a financial product or service with the intent to facilitate consumer understanding of the terms and conditions of the product or service.
- **“Premises”** means any building, structure, or any other place occupied by a financial service provider for the purpose of providing services for the consumer.
- **“Working days”** means Monday to Friday, not including public holidays.

#### 4. Objectives

These directives are to ensure:

- a) That consumers have access to adequate complaints handling and redress mechanisms that are accessible, independent, fair, accountable, timely and efficient;

- b) That the complaint mechanisms do not impose unreasonable cost, cause undue delay or impose a burden on consumers;
- c) That consumers and businesses are protected through the promotion of fair banking practices;
- d) The fostering of public confidence and trust in the banking sector and thus promote financial stability, growth and efficiency in the banking sector;
- e) That the public is educated on their right to redress in order to promote fairness in the banking sector.

## **PART II - PRINCIPLES**

The following principles shall govern the financial service providers in their compliance with this directive:

### **5. Act Honestly**

Financial service providers shall act honestly, by presenting all terms and information in a clear and accurate manner without any intent to mislead consumers.

### **6. Unfair Treatment**

Financial service providers shall not unfairly treat consumers, or any other actors, nor discriminate against them in any way, for presenting complaints to the financial service provider, independent organizations and individuals, or the Bank of Ghana.

### **7. Access to Redress**

All consumers shall have access to adequate complaints' handling and redress mechanisms that are easily accessible, independent, fair, accountable, timely and efficient.

### **8. Adequate Internal Redress Mechanisms**

Financial service providers shall offer adequate internal dispute resolution mechanisms.

### **9. Redress Mechanisms**

Financial service providers shall have in place appropriate and effective procedures for receiving, considering and resolving complaints as well as for reporting complaints data to the Bank of Ghana. These procedures must be explicit and well documented.

## **PART III – AWARENESS AND ACCESSIBILITY**

### **10. Provision of Adequate Information**

The financial service providers shall ensure that adequate information on the recourse mechanism is provided and clearly explained to the consumer.

## **11. Recourse Material Display**

The financial service providers shall display a poster which shall be a reproduction of **Annex I** of this document at every branch, agent location and any other location where the financial service provider's products and services are sold. The poster shall be prominently displayed at every location where the financial service provider's products and services are sold. The information in this document shall be made in a leaflet format for consumers at no cost to the consumer and shall also be displayed on the homepage of the financial service provider's website. The financial service provider may also display the contents of the poster digitally or in any other desired form, provided the information is displayed conspicuously.

## **12. Availability of Information**

- 12.1 Financial service providers shall make available to consumers, a summary of information that is accurate and up to date.
- 12.2 The financial service provider shall also inform consumers of their right to redress, in the event that the consumer is dissatisfied with a product or service, or in the event of a dispute between the consumer and the financial service provider.
- 12.3 The financial service provider shall inform the consumer of the various channels of redress available, both within and outside the financial service provider's structure.
- 12.4 The financial service provider shall provide the required information through all its communication channels the means of accessing internal and external dispute resolution mechanisms in all their communication channels, including:
  - Websites;
  - Product disclosure forms and summary sheets
  - Pre-agreement statements
  - Contracts and agreements between financial service providers and consumers
  - Account statements

## **13. Complaint Channels**

Consumers may present complaints to financial service providers through the following channels:

- Verbally, in person
- Verbally, by telephone
- In writing, in person
- In writing, by post

- Any additional communication channels the financial service provider offers, including websites, email, and agent locations.

#### **14. Cost**

Financial service providers shall not charge any cost, fee or penalties to consumers for accepting, handling and resolving complaints.

#### **15. Third Party Agents**

Where financial service providers use independent or third party agents to provide their products and services, the financial service provider shall be responsible for their compliance with all rules and procedures for handling consumer complaints.

#### **16. Acknowledgement of Complaints**

A financial service provider shall acknowledge receipt of every complaint filed by a complainant within five (5) days of receipt of the said complaint. An acknowledgement shall be rendered in the form in which the complaint was filed. The five (5) day acknowledgement shall be considered part of the twenty (20) day resolution period stipulated in paragraph 28.1 below.

#### **17. Reception and Resolution**

The financial service provider shall receive and resolve each complaint lodged by a complainant.

### **PART IV – COMPLAINT HANDLING AND RESOLUTION PROCESS**

#### **18. The Three Level Process**

The complaint handling and resolution process for a consumer of financial products and services has three levels:

##### **18.1 Financial Service Provider**

- First - at the level of the financial service provider: the financial service provider shall establish an internal complaint and redress procedure that shall handle and seek to resolve all initial complaints. Where the parties are unable to arrive at a consensus, the financial service provider shall refer the matter to the Bank of Ghana in writing within five working days of the stalemate.

##### **18.2 Bank of Ghana**

- Second - at the Bank of Ghana: the Bank of Ghana shall take up all referred unresolved complaints or disputed decisions by the Financial Service provider and act as Arbitrator between the parties and give appropriate directives where required.

##### **18.3 The Courts**

- Third - at the Court: where a party is dissatisfied with the decision of the Bank of Ghana, the aggrieved party may seek redress in Court by instituting a legal action.

## **PART V – COMPLAINTS MECHANISMS INSTITUTED BY THE FINANCIAL SERVICE PROVIDER**

### **19. Establishment of Written Procedures**

- 19.1 The financial service providers shall establish a written policy and have written procedures that cover the following;
- Receipt of complaints;
  - Procedure to handle and resolve complaints,
  - Monitoring of complaint handling and resolution,
  - Reporting procedures and communication of complaint resolutions/decisions both internally and to the Bank of Ghana.
  - Communication of resolutions/decisions to consumers.
- 19.2 The Financial Service Provider's policy shall ensure that complaints are handled courteously and impartially. The financial service provider shall also ensure that employees who handle complaints are adequately trained to do so and possess sufficient understanding of consumer protection.
- 19.3 The Bank of Ghana shall have the authority to review Financial Service Providers' internal consumer protection policies and shall make recommendations for improvement where necessary.

### **20. Requirement to Receive Complaints**

Financial service providers are required to have in each branch a unit and/or function established to receive complaints from consumers and initiate the dispute resolution process. This unit and/or function are to be staffed with competent and properly trained staff member(s), available to consumers during all normal business hours.

### **21. Right to Complain to the Financial Service Provider**

All consumers may complain firstly to the branch or agency of the financial service provider whose product or service is the subject of discontentment, at the location where the service was provided, or use any channel of complaint provided by the financial service provider, before consulting the Bank of Ghana.

### **22. Traceability of Complaints**

The financial service provider shall ensure that the complaint is traceable and to that purpose, they must assign a unique registration number upon receipt of each complaint. This unique registration number is to be provided to the complainant when they first present their complaint to the financial service provider. Staff receiving the complaint shall explain to the complainant the purpose of this number

and the importance of remembering this number for all future follow-up on their case.

### **23. Equal Treatment of Complaints**

All complaints shall be treated equally.

### **24. Minimum Complaint Information Required**

Upon receipt of the complaint, the financial service provider must register the following minimum complaint information;

- Complaint unique registration number;
- Date financial service provider received complaint by;
- Date complaint occurred;
- Channel through which consumer presented complaint;
- Staff receiving the complaint;
- Name of the complainant;
- Gender of the complainant;
- A copy of an ID card of the complainant
- Age / Date of birth of the complainant;
- Complainant's contact information;
- Preferred method for receiving follow-up information relevant to the case;
- Product or service type the complaint refers to;
- Complainant's relation to the financial service provider;
- Account number if complaint refers to a particular product or service contracted by the complainant;
- Description of the complaint;
- Desired outcome sought by the complainant;
- Any supporting documentation provided by the complainant

A sample complaint form is provided for in Annex II.

### **25. Translation of Complaints**

Financial service providers shall receive and translate written and verbal complaints presented in other languages into English. They shall then read and interpret what they have written to the complainant to ensure that what is written captures the sentiments of the complainant.

### **26. Provision of Relevant Information**

The complainant shall provide all relevant information to the case requested by the financial service provider and act in good faith to facilitate the investigative process. The financial service provider shall also act in good faith in processing the complaint, and refrain from requesting documents or information from the complainant that is not directly relevant to the investigation and resolution of the particular complaint presented by the consumer.

## **27. Confidentiality**

All information related to the complaint and complainant shall be treated confidentially. Information provided by the complainant shall be used only for the purpose for which it was obtained.

## **28. Resolution Period**

- 28.1 The financial service provider shall resolve the complaint and present the decision to the complainant no later than twenty (20) working days after the date of receipt of the complaint.
- 28.2 Where the financial service provider is unable to resolve the complaint within the stipulated period, the financial service provider shall inform the complainant of its requirement of more time to resolve the issue.
- 28.3 Where the financial service provider requires more time to resolve a complaint, the financial service provider may take an additional ten (10) days.

## **29. Requirement For Extended Resolution Period**

- 29.1 If the financial service provider needs more time to resolve the complaint due to its complexity or the need for additional information, a notification shall be sent to the complainant in advance of the expiration of the twenty (20) working days permitted to resolve the complaint, explaining the reasons for the need to extend the period for complaint resolution and specifying the length of additional time that will be required. The financial service provider is permitted up to ten (10) additional working days to render a decision, or refer the complaint to Bank of Ghana.
- 29.2 The notification shall be communicated to the complainant in writing as well as in any other means of communication requested by the complainant that is included in Paragraph 13. In the case of phone notification, the financial service provider must document the time, date, and phone number contacted to inform the complainant.

## **30. Provision of Resolution in Writing**

The financial service provider shall convey the result of their investigation into the complaint and related ruling to the complainant in writing as well as in any other means of communication requested by the complainant that is stipulated in Paragraph 13 of this document. This communication shall include, at a minimum;

- The complaint's unique registration number,
- Description of the complaint,
- Desired outcome sought by the complainant,
- Decision made by the financial service provider on the complaint,
- Evidence supporting this decision, and
- Clear instructions on how to appeal this decision to the Bank of Ghana with all contact information (including at a minimum phone numbers,

mailing address and physical address), description of the appeal process and time frame.

## **PART VI – COMPLAINTS MECHANISMS AT THE BANK OF GHANA**

### **31. Right to Appeal**

- 31.1 A complainant may appeal to the Bank of Ghana if the complainant has not received an answer from the financial service provider after twenty (20) working days of lodging the complaint;(or after thirty (30) working days in the case of an extension), or if the complainant does not agree with the resolution adopted by the financial service provider.
- 31.2 Upon receipt of notification of the resolution of the complaint, the complainant shall have twenty (20) working days to submit an appeal against the decision of the financial service provider to the Bank of Ghana. This appeal can be submitted through any of the channels provided in paragraph 13 of this document. The financial service provider shall be notified by Bank of Ghana of the appeal.
- 31.3 If the complainant has not presented any appeal within the time frame specified, the matter shall be considered as resolved by the financial service provider and shall be recorded as such in the complaints data to be reported by the financial service provider to the Bank of Ghana.

### **32. Assignment of Same Complaint Unique Number Upon Appeal**

In the case of an appeal the complainant may be assigned the same complaint unique registration number that was given to the complainant by the financial service provider as specified in paragraph 23.

### **33. Resolution Period for Appeals Received At The Bank Of Ghana**

Upon receipt of the appeal from the complainant, the Bank of Ghana will have twenty (20) working days to conduct an investigation into the matter and issue a decision. This decision shall be communicated to the complainant in writing as well as any other means of communication requested by the complainant that is in Paragraph 13. The financial service provider will also be given a copy of the written notification of the decision that was sent to the complainant.

### **34. Resolution Notification Information Required**

The notification shall include;

- The complaint unique registration number,
- Nature of the complaint,
- Desired outcome sought by the complainant,

- Decision made by the Bank of Ghana on the complaint,
- Evidence supporting this decision, and
- The right to seek redress at the Court.

### **35. Provision of Relevant Information During Investigations**

During the course of the investigation the financial service provider and complainant shall provide all relevant information to the case requested by the Bank of Ghana, and act in good faith to facilitate the investigative process.

### **36. Legal Implications of Bank Of Ghana's Decision**

The decision by the Bank of Ghana will be considered binding for the financial service provider.

### **37. Right to Take Legal Action**

The complainant as well as the financial service provider may take legal action if it is dissatisfied with Bank of Ghana's decision.

## **PART VII – MONITORING AND REPORTING**

### **38. Quarterly Reporting**

Financial service providers shall submit reports on complaint handling and resolution directly to the Bank of Ghana on a quarterly basis.

### **39. Quarterly Reporting Deadlines**

The quarterly report shall be submitted not come later than ten (10) days after the end of the reporting period.

### **40. Reporting Information Required**

The quarterly report shall follow the structure developed by Bank of Ghana and included in Annex iii. Reports shall in any case contain information about the following data;

- Number of complaints received in period,
- Number of complaints resolved,
- Number of complaints pending,
- Number of cases referred to Bank of Ghana,
- Number of complaints submitted by age and gender of complainant,
- Number of complaints submitted by branch if any,
- Number of complaints by product and/or service type,
- Number of complaints submitted by client type,
- Number of complaints submitted by nature of complaint, and
- Number of complaints submitted by channel type.

## **PART VIII – OTHER REQUIREMENTS FOR THE FINANCIAL SERVICE PROVIDERS**

### **41. Training Requirements**

Financial service providers shall provide adequate training on consumer protection principles, rights of consumers and complaint handling. This training is compulsory on an annual basis for all the front-end staff of a financial service provider and encouraged for all staff of a financial service provider.

### **42. Board of Directors Responsibilities**

The Board of Directors of financial service providers shall be responsible for the institution of complaints handling and consumer dispute resolution procedures within their institutions.

### **43. Senior Management Responsibilities**

The financial service provider shall appoint a senior management staff as responsible for the implementation of the complaints handling and customer dispute resolution systems, as well as compliance with the requirements set forth in this directive. The designated manager will have the following responsibilities;

- Ensure that the training programs on consumer protection for the relevant staff are provided,
- Ensure that the consumer protection procedures are followed, and where necessary, implement any corrective measures needed in the event of non-compliance or mishandling of the consumer protection procedures,
- Conduct periodic follow up on the status of complaints received,
- Prepare reports on complaints handling and dispute resolution system to be submitted to the Board of Directors and the Bank of Ghana on a quarterly basis,
- Submit annual reports to Bank of Ghana (refer to Annex IV), and
- Make recommendations to the Board of Directors on improvements to be made to complaints handling and dispute resolution.

## **PART IX – OTHER DISPOSITIONS**

### **44. Limitation of Period for Acceptance of Complaints**

44.1 The consumer may initiate the recourse process contained in this directive within a period of six (6) years after the occurrence of the incident which occasioned the complaint.

44.2 A complaint shall not be considered six (6) years after the occurrence of the incident which occasioned the complaint.

#### **45. Decision of the Court**

If a complainant seeks redress in a Court of competent jurisdiction on a matter, a complaint shall not be initiated under this Directive unless the Court action is withdrawn.

#### **46. Implications of Taking Case to Court**

If a complainant decides to take a matter to Court before a decision is reached under recourse mechanisms in this Directive all processes shall be suspended unless the Court action is withdrawn.

#### **47. PART X – SANCTIONS**

The Bank of Ghana shall supervise all internal and external dispute resolution mechanisms instituted by financial service providers and may impose an administrative fine of not more than five thousand penalty units, and in the case of a continued breach, an additional fine of not more than fifty penalty units for each day the breach continues.

The Bank of Ghana shall exercise its discretion to impose fines for non-compliance.

#### **48. Annexes**

Annex i: Poster

Annex ii: Client Complaint Reporting Form

Annex iii: Quarterly Reporting template by financial service provider to Bank of Ghana

Annex iv: Annual Reporting template by financial service provider to Bank of Ghana