



September 30, 2014

Circular Number C-06-2434

To: The banking corporations and credit card companies

Issue: Handling public complaints
(Proper Conduct of Banking Business Directive 308A)

Introduction

1. The Banking Supervision views the banking corporations' handling of public complaints as an important tool in ensuring the public's trust in the banking system, ensuring the fairness in relations between the banking corporations and their customers, maintaining reputation, and compliance to the obligations that apply to the banking corporations in accordance with the provisions of the law and Banking Supervision guidelines.
2. With the aim of improving the banking system's handling of public complaints, the Banking Supervision is adopting Principle 9 of the G-20 High-Level Principles on Financial Consumer Protections as published by the Organization for Economic Cooperation and Development (OECD). Similarly, Banking Supervision procedures for handling public complaints have been adjusted to the changes derived from the promulgation of the Directive and the adoption of the aforementioned Principle 9.
3. Following consultations with the Advisory Committee on Banking Business, and with the approval of the Governor, I have set out this directive regarding the handling of public complaints.

Main points of the directive

4. The Directive sets out the following main rules:
 - (a) A banking corporation shall be required to set out a policy for the handling of public complaints on a group basis. In setting out the policy, the various characteristics of the activities of subsidiary companies may be taken into account. **(Section 6(a) of the Directive)**
 - (b) A banking corporation is obligated to establish a designated function for handling public complaints, and to appoint a Public Complaints Ombudsman to lead it. **(Section 7 of the Directive)**



- (c) The Public Complaints Ombudsman and his employees shall not hold any other position. **(Section 7 of the Directive)**
- (d) The Public Complaints Ombudsman and his employees shall have the status, resources and authorities as required to carry out their work. **(Section 7 of the Directive)**
- (e) The Public Complaints Ombudsman and his employees shall handle public complaints fairly, efficiently, and within a limited time frame, and shall provide a reasoned response to the complainant. **(Sections 8, 9 of the Directive)**
- (f) The Public Complaints Ombudsman shall have the authority to award monetary or other remedy as a result of the investigation of the complaint, and to recommend methods of correcting the deficiencies. **(Section 8 of the Directive)**
- (g) A complainant has the right to appeal the decision of the banking corporation to the Banking Supervision. **(Section 9 of the Directive)**
- (h) The Public Complaints Ombudsman shall report to his superior and to the compliance officer regarding material deficiencies, and shall submit periodic reports summarizing his activities for discussion of the management and the Board of Directors. **(Sections 5, 6, 8, 11 of the Directive)**
- (i) The Public Complaints Ombudsman shall submit a periodic report to the Banking Supervision. **(Section 12 of the Directive)**
- (j) The service covenant of the Public Complaints Ombudsman and a report summarizing his activities shall be brought to the attention of the public. **(Sections 13, 14 of the Directive)**

Explanation

The Directive makes it obligatory to establish a designated function for handling public complaints and to appoint a Public Complaints Ombudsman. Giving formal status to this function is intended to grant it the appropriate status, authorities and independence, and to allow it to focus solely on providing a response to public complaints. In addition, the Directive sets out the authorities and roles of the public complaints function and its head, as well as those of management and the Board of Directors in this regard, in order to ensure their efficient and proper functioning, to ensure a rapid and fair response to the customer, and to improve the transparency and functioning of the banking corporations in their relations with their customers.

The process of handling a complaint at a banking corporation and at the Banking Supervision



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5. Submitting a complaint to a defendant banking corporation first:
- (a) As of the date this Directive comes into force, an investigation of the complaint by the defending banking corporation shall be a pre-condition for submitting a complaint to the Banking Supervision, except for extenuating cases detailed in Section D below.
 - (b) A complainant who would like to appeal to the response he received from the banking corporation to the Banking Supervision, shall attach the response he received from the public complaints function of the banking corporation to the complaint.
 - (c) A complainant who submits a complaint to the Banking Supervision before approaching the banking corporation for such an investigation shall receive a notice that he must first approach the Public Complaints Ombudsman at the banking corporation.
 - (d) Notwithstanding the foregoing, the Banking Supervision shall handle complaints in which the investigation process at the banking corporation has not been exhausted, in the following cases:
 - (1) A complaint was submitted to the banking corporation but was not answered within 45 days, and the complainant has attached a supporting reference to the submitted complaint;
 - (2) In extenuating cases in accordance with the Supervisor of Banks' discretion.
6. Complaints to the Banking Supervision shall be handled by the Public Enquiries Unit. The Banking Supervision shall be permitted to base its decision in the complaint on the response from the banking corporation as provided directly to the customer and attached to the complaint or provided in accordance with a request from the Banking Supervision.

Applicability

- 7. This Directive will come into force no later than April 1, 2015. As of the date of application, the Supervisor of Banks' Letter from November 21, 2001 regarding "Response to letters from the Public Enquiries Unit" will be cancelled.
- 8. A banking corporation and/or credit card company that experiences difficulty in implementing this Directive shall contact Ms. Sonia Bogoslavsky, Head of the Public Enquiries Unit, to receive specific guidance.

File update



9. Update pages for the Proper Conduct of Banking Business Directives file are attached. The following are the update instructions:

Remove page -----
Insert page 308A-1-6 (9/14) [1]

Sincerely,

David Zaken
Supervisor of Banks