



TURKS AND CAICOS ISLANDS FINANCIAL SERVICES COMMISSION



Policy Regarding Complaints Against the Commission

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STATEMENT OF PURPOSE

1. The Turks and Caicos Islands Financial Services Commission (the Commission) is a statutory body established under the Financial Services Commission Ordinance (FSCO) 2001 which has been preserved and continued under the FSCO 2007. It is responsible for the licensing, supervision and regulation of the financial services industry in the Turks and Caicos Islands. The Commission also provides a centralised service for registering companies, partnerships, business names, trademarks and patents in the Turks and Caicos Islands.
2. The Commission strives to apply honesty and high ethical standards in all its actions and therefore should any person be displeased with the actions of the Commission or its employees in the performance of their functions, the procedures that will be outlined below are to be followed in order to file a complaint.
3. The Commission recognizes the value of information provided by persons in determining whether its performance is consistent with its remit and maintaining the highest standards. It is also interested in ensuring that any grievance procedure is applied consistently and uniformly. The procedures for the review of complaints allow the Commission to address possible violations in standards, policies and procedures established by the Commission.
4. The Commission's Policy regarding the Handling of Complaints is designed to ensure the prompt handling of complaints from members of the public aggrieved by the actions or omissions of Commission or its employees, and to facilitate effective resolution of complaints. However, it must be noted that the Complaint handling procedures **does not** extend to dissatisfaction with regulatory decisions dealing with applications for licences or such matters etc.
5. This policy has been designed bearing in mind the Commission's Mission Statement.

SUMMARY OF PROCEDURES FOR FILING A COMPLAINT

1. Complaints are processed and handled by the Managing Director through a Complaints Committee chaired by the Managing Director and the Legal Counsel will act as the Deputy Chair. The other committee members will comprise of the Head of Finance and Administration, Head of Company Management and Investments and Head of Information Technology. One of which shall be appointed Secretary and shall be responsible inter alia for the logging of complaints in the complaints Register.
2. Any complaint filed must clearly outline the dissatisfaction regarding the way in which the Commission has carried out or failed to carry out its duties. Any person directly affected by such failure may complain.
 - All complaints must be submitted in writing to the Managing Director and must be accompanied by a copy of all relevant documentation and correspondence (where applicable).
 - Complaints should identify the complainant. Complaints that are raised anonymously **will not** be entertained or considered.
 - The Commission will write to the complainant to acknowledge receipt of a complaint within seven (7) working days and provide a reference number.
 - Complaints will be reviewed, evaluated and investigated, as appropriate, by a senior staff member of the Commission who is independent of the matter being complained of and where necessary by other Commission employees who are likewise independent in order to determine what action is required to be taken.
 - Complaints brought more than twelve (12) months after the date of occurrence of the matter giving rise to the complaint **will not** be investigated by the Commission. Where the date cannot initially be ascertained, the Commission will conduct an investigation into the matter and may require written submissions and/or an interview with all persons concerned in the matter. The Commission will not investigate matters for which legal action before the Courts has already commenced or is about to commence.
 - The Commission will record all complaints in a central complaints register for

internal monitoring purposes. The register will be maintained by the secretary and only committee members will have access to it. The register will also reflect a summary of the outcome.

- A report from the Complaints Committee will be forwarded to the Board of Directors on a quarterly basis for their review.

PROCEDURES

Definition of complaint

3. A complaint is a formal, written document, informing the Commission of an instance or a series of instances when employees of the Commission have not performed their duties and functions under the FSC Ordinance and associated regulatory ordinances sufficiently, professionally, transparently, efficiently, courteously or fairly.

Scope of this policy

4. This policy covers complaints about the manner in which the Commission has acted or failed to act, and includes complaints relating to actions such as:
 1. Negligence, Mistakes and Lack of Care;
 2. Unreasonable Delay;
 3. Unprofessional Behaviour;
 4. Bias and/ or Unfair Behaviour;
 5. Lack of Integrity; and
 6. Misrepresentation and Knowingly providing False Information.
5. Complaints about regulatory decisions and decisions of the Board of Directors of the FSC are not covered by this policy. Complaints relating to the actions and conduct of individual Board members should be directed to the Chairman of the Board.
6. This policy also does not cover complaints about the operations and management of

licensees (or persons carrying on a financial services business without a licence). Such complaints should be directed to the person or entity being complained about first with a copy or separate letter to the Head of the relevant regulatory department and copied to the Managing Director.

Who can complain?

7. Any person who is directly affected by the manner in which the Commission has carried out (or failed to carry out) its duties may submit a complaint.

How to make a complaint

8. Complaints should be made in writing and addressed to:

Managing Director
Financial Services Commission
Caribbean Place
Leeward Highway
Providenciales
Turks & Caicos Islands
fsc@tcway.tc
Fax No.: (649) 941 – 3569

OR

Managing Director
Financial Services Commission
Harry E. Francis Building
Pond Street
Grand Turk
Turks & Caicos Islands
fsc@tcway.tc
Fax No.: (649) 946 - 2369

9. Any complaints relating to the Managing Director will be to the Chairman of the Board of Directors and addressed to:

Chairman
C/O Secretary to the Board
Financial Services Commission
Caribbean Place
Leeward Highway
Providenciales
Turks & Caicos Islands
fsc@tcway.tc
Fax No.: (649) 941 – 3569

10. All complaints submitted must identify the person making the complaint and be signed by the complainant. The person making the complaint must have a direct interest in the

matter being complained about. A complaint will NOT be investigated unless and until it has been received in writing.

11. The complaint must clearly establish the nature of the complaint and set out the particulars giving rise to the complaint and must have appended to it copies of any relevant documents. Original documents are not required.
12. Complaints will be handled as expeditiously as possible after they have been submitted to the Commission.

Processing of complaints

13. The Commission will acknowledge receipt of the complaint within seven (7) working days after the receipt of the complaint and will respond to the complainant with details as to how the complaints procedure operates.
14. In each and all cases, the complainant will be advised that the fact that the Commission accepts the submission of a complaint and commences an investigation into the complaint **does not** in any way amount to an admission of fault, malfeasance, omission, error or legal liability by the Commission or its employees.
15. Complaints will be reviewed, evaluated and investigated, as appropriate, by the Commission. The Managing Director will appoint a senior staff member of the Commission and where necessary other Commission employees who are all independent of the complaint and who have had no involvement in the matter complained of. The senior staff member and any other staff members, as the case may be, will investigate the circumstances of the complaint to determine what action is required to be taken and will thereafter attempt to resolve the complaint as swiftly is reasonably possible.
16. The review and investigatory process will normally occur within thirty (30) days after acknowledgement of receipt of the complaint. If at the end of thirty (30) days it is not possible to render a final response to the complainant and resolve the matter, a holding response must be given by the Commission which explains the delay and provides a time period by which a final response will be provided to the complainant.

17. The final response will state whether the Commission –
 - a. Accepts the claim and the remedy it will provide;
 - b. Does not accept the complaint but will notwithstanding offer a remedy;
 - c. Rejects the claim and will take no further action; or
 - d. Will take no further action

and will set out the reasons for the Commission's decision.

18. The Commission may decide not to take any further action in a complaint in certain circumstances which include but are not limited to where:
 - a. incomplete or inaccurate contact details have been submitted;
 - b. the complaint is trivial;
 - c. the complainant provided insufficient information to allow for an assessment;
 - d. the complaint is submitted beyond the time allowed.
19. If the Commission decides that the complaint is not substantiated and decides to take no further action, it will inform the complainant that no further action will be taken and explain its reasons in writing.
20. If the complaint is to be investigated and resolved the Commission will advise the complainant in writing what it proposes to do to remedy the complaint and send the complainant a copy of the Complaint Handling Policy.
21. A report will be submitted on a quarterly basis to the Board of Directors reflecting the number of complaints, results of investigations and actions taken to resolve the matter. This will allow the Commission to develop information on any relevant trends that require policy changes.

Time Limitations

22. Any complaints submitted must be submitted to the Commission as soon as practically possible but in any event no later than twelve (12) months after the incidence or circumstances giving rise to the complaint.

Dissatisfaction with the Resolution

23. If the complainant remains dissatisfied after the Commission has informed him of the outcome of its review and investigation, the complainant may seek further remedy from the Board of Directors through the Secretary to the Board.

COMPLAINTS POLICY GUIDELINES

1. Statement of Policy

1) This Policy seeks to provide guidance to the Commission's employees and the general public on the Commission's Policy Regarding Complaints.

2. Purpose of the Complaints Policy

2) An effective policy for the handling of complaints will support the Commission's ability to regulate with honesty, integrity and transparency. This policy will also assist the Commission to identify areas and division lines which require improvement and put in place systems to mitigate future complaints through lessons learnt. This policy will help to foster a culture of quality service and professionalism that the Commission's employees rely upon in its dealings with the financial services industry.

3) This Policy aims to:

- a) Improve the Commission's response time to complaints;
- b) Fortify the Commission's internal understanding of areas of concern in order to address these problem areas and provide a more efficient service to the financial services industry;
- c) Foster increased levels of professionalism among the staff of the Commission;
- d) Enhance the Commission's relationship with the Financial Services industry and with the general public in order to increase transparency and accountability;
- e) Heighten the Commission's corporate image among the financial services industry and the general public; and

- f) Deliver a system for reviewing, monitoring and ensuring compliance with internal policies.

3. Guiding Principles

- 4) This policy seeks to ensure that there are consistent and transparent responses to all complaints. Each complaint must be lodged in the complaints register by the Secretary of the Complaints Committee. All complaints must be meticulously investigated to the fullest extent possible and resolved in a timely manner.

- 5) In particular, the complaints handling procedures must be;
 - a) Methodological in approach;
 - b) Transparent and ensure full accountability;
 - c) Without bias, prejudice or partiality;
 - d) Flexible and able to adjust to the circumstances of each case;
 - e) Capable of providing suitable and proper resolution to complainants;
 - f) Effectively communicated, understood and owned by all of the Commission's employees;
 - g) Publicized via channels available to the public such as the Commission's website and annual report;
 - h) A system which provides for confidentiality in dealing with complaints.

4. Resolution Responsibility

- 6) The Managing Director, as Chair of the Complaints Committee is ultimately responsible for ensuring that all complaints lodged under the Complaint Handling procedures are resolved.

- 7) The Complaints Committee must:
 - a) Ensure that the complaints handling procedures are communicated to all staff and performed expediently to bring about a timely resolution;
 - b) Establish procedures for its operation;

- c) Develop approved forms for the submission of complaints and for analyzing reports;
- d) Ensure that departments within the Commission investigate complaints in a responsible and professional manner;
- e) Lead the way in establishing a culture of professionalism and best practice;
- f) Ensure that laws are upheld by all employees and that improper, dishonest and inappropriate conduct is subject to appropriate disciplinary measures; and
- g) Implement policies to mitigate against complaints from lessons learnt over time.

5. Handling Complaints

- 8) The Head of each Department is responsible for:
 - i) Liaising with and reporting to the Complaints Committee;
 - ii) Responding to requests from the Complaints Committee as a priority;
 - iii) Working with the Complaints Committee to decide the appropriate method of investigation; and
 - iv) Working with the Complaints Committee to ensure that a speedy resolution is sought to all complaints, including but not limited to a formal apology or other resolution measures which are appropriate to the circumstances surrounding the complaint.

- 9) The Commission must send a formal written acknowledgement of the complaint to the complainant within seven (7) days of receiving the complaint. The acknowledgment must specify the name, job position and contact information of the senior staff member who will be handling the complaint. A copy of the complaint handling procedures must be appended to the correspondence.

- 10) The Commission will endeavor to provide a final response to the complaint as soon as possible and normally within thirty (30) days of the acknowledgment. However there may be instances where given the complexity of the circumstances, it may not be possible to

provide a resolution within that time. In such cases a holding response must be sent which explains the reason for the delay and provides a reasonable period in which a response is expected to be given.

6. Monitoring and Evaluation

11) The Complaints Committee will monitor the complaints that are received by the Commission and the action that is taken to resolve them to make certain that they are resolved on a timely basis.

12) On a quarterly basis the Complaints Committee will prepare a report for submission to the Board of Directors for review. This report will contain, inter alia:

- a. A numbering system which would identify each complaint by reference to a particular number and type according to whether the complaint is in relation to management staff or other staff;
- b. Details about the complainant including the full name and contact details and if a company, then details about the company and location of the company and the contact person within that company;
- c. The date that the complaint was received;
- d. Details relating to the nature and circumstances surrounding the complaint;
- e. The date that the complaint was acknowledged, and the reference number as well as the Policy regarding complaints sent to the complainant.
- f. Confirmation that the complaint has been passed to the appropriate senior manager for investigation;
- g. An overview of the investigation which was conducted;
- h. Details of the actions taken to resolve the matter;
- i. Any feedback received from the complainant regarding their satisfaction with the resolution;
- j. Whether the action complained about is a repeat one or first occurrence and if a

repeat action the number of times it has occurred; and

- k. An outline of any internal or external correspondence relating to the complaint.

7. Annual Reviews

13) This policy will be reviewed periodically and at least once per year in order to ensure that the policy continues to be relevant to the business environment in which the Commission operates and to ensure that the overarching objective is met.

14) Reviews will be conducted to:

- a. Ensure consistency with changing policies within the Commission;
- b. Keep current with international best practices, legislative changes and other governmental policies which impact on the work of the Commission;
- c. Address systematic problems identified through the monitoring and reporting process of the complaint handling system.

8. Statistics

15) The development of statistical information is important to the work of the Commission, particularly in the area of its complaints handling system. Statistics are a major component of the reports presented to the Board and will be published in the Annual Report. The Complaints Committee will therefore analyze reports to develop statistics relating to:

- a. Number and type of complaints received;
- b. Number and type of complaints for which action was taken;
- c. Number and type of complaints which were not accepted and no action taken;
- d. Number and type of complaints which were acknowledged or resolved beyond the stipulated time period;
- e. Number and type of complaints which required a holding response;
- f. Number and type of complaints which have not been resolved;
- g. Number and type of complaints which involved legal representation by either party;
- h. Categorization of the complaints i.e. department involved, category of licence

etc.;

- i. Recommendations by the complainants on the appropriate resolution or measures to mitigate a recurrence of the incident.

9. Record Retention

16) The Commission will retained a record, including copies of all relevant documentation relating to a complaint for a period ending two years from the date of the complaint. The record will include but is not limited to:

- a. The nature and substance of the complaint;
- b. The name and contact details of the complainant;
- c. Copies of all correspondence between the Commission and the complainant;
- d. Details of any resolution made by the Commission; and
- e. Policy changes within the Commission which were instituted as a result of a complaint.