

CUSTOMER PROTECTION RULES

The Bank of New York Mellon SA/NV, Sucursal
en España

CUSTOMER PROTECTION RULES

INTRODUCTION

1. Introduction

- 1.1. Order ECO/734/2004, of March 11, 2004, on Customer Care Departments and Services and Customer Ombudspersons in Financial Institutions, developing the chapter V of Law 44/2002 of November 22, establishing measures to reform the financial system, provides several measures aimed to protect customers of financial services.
- 1.2. Among such measures, the Order provides the obligation for financial institutions to establish a customer care service or department and to approve a regulation thereof.
- 1.3. In this context, the competent body (the "**Branch Manager**") of The Bank of New York Mellon SA/NV, Sucursal en España (the "**Branch**") has resolved to set up a customer care service (the "**Customer Care Service**" or the "**Service**") and to approve these Customer Protection Rules (the "**Rules**").
- 1.4. The Rules shall be subject to the verification of the Bank of Spain, as supervisor of the Branch in this regard.
- 1.5. The treatment of claims and complaints from all clients is taken seriously and employees dealing with complainants must be mindful of the requirements.
- 1.6. In addition to these Rules, the Branch may establish internal procedures for the consistent handling and reporting of claims and complaints, ensuring that all employees within the business are aware of these procedures. The procedures should include instruction and training for employees to ensure claims and complaints are investigated competently, diligently and impartially and complainants are treated in a fair and respectful manner.

CHAPTER I

PURPOSE, FUNCTIONS AND CHARACTERISTICS OF THE CUSTOMER CARE SERVICE

2. Purpose of the Rules

- 2.1. The basic purpose of the Rules is to regulate the structure, activities and procedures of the Customer Care Service. Through the Customer Care Service, the Branch will settle any claims and complaints raised by its customers, under the provisions of Order ECO/734/2004, Law 7/2017, of November 2, on consumer alternative dispute resolution systems for consumer disputes, and Royal Decree-law 19/2018, of November 23, on payment services and other urgent financial measures.
- 2.2. The Rules are applicable to natural and legal persons, Spanish or foreign, meeting the condition of customer of the services of the Branch, understood as those all users of the services provided by it.
- 2.3. For the purpose of the Rules, claims will be referred to those acts or omissions of the Branch resulting in a damage of the interests or rights of the customers and deriving from a breach of the regulation on transparency or client protection or the sound practices by the Branch. Complaints will be referred to delay, neglect or any other deficiency detected by customers.

3. Responsibilities of the Customer Care Service

- 3.1. The Customer Care Service is responsible for safeguarding and protecting the rights and interests of customers, as well as for ensuring that relations between the Branch and its customers always meet the requirements of good faith, fairness and mutual trust.
- 3.2. Specifically, the Customer Care Service will be responsible for the following:
 - a) Hearing, studying, investigating, gathering all information, and settling customers' claims and complaints about operations, services or agreements, and all cases where the Branch's customers believe their statutory or contractual rights have been infringed.
 - b) Hearing, studying and settling any questions the Branch has about its relations with clients.
 - c) Drafting the Branch's reports, recommendations and proposals on all aspects, within its scope of authority, that could promote good relations and compliance between the Branch and its customers.

- 3.3. In any case, the Customer Care Service is not responsible for the following:
- a) The relationship between the Branch and its employees, unless they act only as Branch's customers;
 - b) the relationship between the Branch, its shareholders or its holding, unless they act only as Branch's customers;
 - c) issues relating to the Branch's decisions about contracts, transactions or services with certain persons, and their covenants or conditions, unless they are complaints about the delay in making such decisions, which will be within the competence of the Customer Care Service; and
 - d) issues relating to pending matters that are or have already been resolved by the Spanish administration, courts or through arbitration, or which aim to prevent, delay or obstruct the Branch exercising its rights against its customers.
- 3.4. As the Branch does not have a customer ombudsperson, the Customer Care Service will settle all claims and complaints raised by customers, regardless of the issue and their value, if these claims and complaints refer to their legal interests and rights, concerning contracts, transparency rules, customer protection rules, or good financial practices, particularly the equity principle.

4. Autonomy and resources

- 4.1. The Customer Care Service is characterised by its autonomy in making its decisions regarding the scope of its activity. The Branch shall take the necessary steps to keep the Service separate from the Branch's commercial or operational departments to ensure it can make its own decisions about the matters that fall under its scope and to prevent conflicts of interests.
- 4.2. The Branch Manager shall make sure that the Service has the suitable human, tangible, technical and organisational resources needed to perform its duties.
- 4.3. The Branch and all its departments and services shall ensure that the Service:
- a) receives claims and complaints of clients within two (2) business days following its submission by the customer;
 - b) exercises its functions in the best way, especially by providing all the necessary requested information on matters that fall under its scope;
 - c) resolves on the claims and complaints within the required timeframe.

- 4.4. The Branch will take the relevant measures to ensure that the staff of the Service has proper knowledge on the banking and securities market regulation, and notably the regulation on transparency and customer protection. The Branch will procure that the staff receives the required training.
- 4.5. All departments and services of the Branch must provide the Customer Care Service with any information it requests in connection with the exercise of its functions.

CHAPTER II

HEAD OF THE CUSTOMER CARE SERVICE

5. Appointing the head of the Service

- 5.1. The head of the Customer Care Service (the "**Head of the Service**") shall be appointed by the Branch Manager.
- 5.2. The Head of the Service must be an honorable person in a commercial and professional sense, and must be suitably qualified in terms of knowledge and experience for performing his or her duties, in accordance with the Rules.
- 5.3. The Branch Manager shall appoint, renew, replace or dismiss the Head of the Service.
- 5.4. The appointment, renewal, replacement or dismissal of the Head of the Service shall be reported to the Bank of Spain.

6. Duration of the Head of the Service

The Head of the Service shall be appointed for a period of six (6) years and may be renewed for the same periods of time.

7. Incompatibility and discharge

- 7.1. Carrying out any functions in the Branch's commercial departments would be considered incompatible with the role of the Head of the Service.
- 7.2. Persons with criminal records or subject to criminal proceedings may not be appointed as Head of the Service.
- 7.3. The Head of the Service shall be discharged in any of the following circumstances:

- a) Expiration of the term without renewal;
 - b) Disability;
 - c) Declared guilty of crime by a firm judgment;
 - d) Resignation;
 - e) Incompatibility;
 - f) Material breach or gross negligence when performing the corresponding obligations and duties.
- 7.4. Once the position is vacant, the Branch Manager shall appoint a new Head of the Service within thirty (30) days of the vacancy arising. The appointment will be notified to the Bank of Spain.

CHAPTER III

PROCEDURE FOR FILING CUSTOMER CLAIMS AND COMPLAINTS

8. TERM, FORM, CONTENT AND PLACE FOR FILING CLAIMS AND COMPLAINTS

- 8.1. Customers must file their claims and complaints with the Customer Care Service within two years of becoming aware of the facts giving rise to the claims and complaints.
- 8.2. Claims and complaints filed after this time will be rejected.
- 8.3. Claims and complaints may be filed by customers (directly or through representation) in writing, either on paper or electronic means (provided that they must be properly recorded).
- 8.4. The process shall begin when a customer files a document stating:
 - a) The full name and address of the customer concerned and the full name and address of its duly authorised representative.
 - b) The Spanish Identification number in the case of individuals and the registration details in the case of legal persons.

- c) The reason for the claim or complaint, with a clear specification of the issues on which a resolution is requested.
 - d) The office(s), department or service in which the events giving rise to the claim or complaint have taken place.
 - e) That the complainant is not aware of any administrative, arbitration or court proceedings under way concerning the subject-matter of the claim or complaint.
 - f) The place, date and signature.
- 8.5. Together with this document, the complainant must also submit any documentary evidence he holds supporting his claim or complaint.
- 8.6. Claims or complaints may be filed directly with the Customer Care Service, through any office of the Branch, or by using an email address provided for this purpose.
- 8.7. The submission and handling of claims and complaints shall be free of charge.

9. Admitting a claim or complaint for processing

- 9.1. When the Branch receives a claim or complaint, this will be forwarded to the Service.
- 9.2. The Branch must acknowledge receipt in writing and record the date on which the claim or complaint was filed to enable the response time to be monitored.
- 9.3. The claim or complaint will be filed only once by the client, without being required to reiterate it before different Branch bodies.
- 9.4. If the complainant fails to duly identify himself, or the circumstances of fact giving rise to the claim or complaint cannot be clearly established, the complainant shall be asked to provide the necessary supplementary evidence within a term of ten (10) calendar days, with a warning that the claim or complaint will be shelved if he fails to do so. If the supplementary information is filed within the mentioned timeframe, the same file will continue to be processed; if the new information is filed out of time, a new file will be opened about the same facts.
- 9.5. The Service may refuse to admit a claim or complaint for processing only in the following cases:
- a) Where information that is essential for processing the claim or complaint is omitted, and this cannot be corrected.

- b) Where a claim or complaint is filed that (i) involves appealing or taking action of another description falling under the jurisdiction of administrative bodies, courts of arbitration or courts of law, (ii) is pending a decision by these bodies or courts, or (iii) has already been settled by these bodies or courts.
 - c) Where the issues raised do not refer to interests or rights legally recognised to the relevant persons as clients of the Branch.
 - d) Where the claim or complaint is the same as an earlier claim or complaint, which the same customer has filed regarding the same circumstances, and that it would have been resolved before.
 - e) Where the two-year period of limitation for filing claims or complaints has already elapsed, calculated in the form indicated in paragraph 8.1 of this Rules.
 - f) Where the Service knows that a claim or complaint for the same matter is simultaneously being heard in administrative, arbitration or court proceedings, in which case the Service shall refrain from processing the claim or complaint.
- 9.6. If the claim or complaint is not eligible to be admitted for processing for any of the above reasons, the Service shall inform the customer concerned of its decision, giving the reasons for not admitting the claim or complaint and granting the customer a term of ten (10) calendar days to file allegations. In light of the customer's response, if the grounds for not admitting the claim or complaint for processing remain, the customer shall be notified of the final decision to that effect.

10. Conducting the process

- 10.1. While the file is being processed, the Customer Care Service may request from both the complainant and the department(s) involved any information, clarification, reports or evidence that the Customer Care Service deems necessary to settle the claim or complaint. The Customer Care Service may set reasonable deadlines to comply with its requests in each case.

11. Acceptance or withdrawal

- 11.1. If the Branch rectifies the situation to which the claim or complaint is referred to at the satisfaction of the customer, the Branch will notify this to the Service and to provide the relevant evidence, unless the client explicitly withdraws from the claim or complaint.
- 11.2. Customers may withdraw from their claims and complaints at any time. The withdrawal will result in the finalisation of the process.

11.3. However, the Service may resolve to continue with the process in the context of its duty to promote the compliance with the regulation and the sound practices.

12. Response time

12.1. The Service has a term of one month from the day on which the claim or complaint is filed to issue its decision. After this term without the Customer Care Service having resolved the claim or complaint, the complainant may contact the Claims Service of the Bank of Spain, or other competent supervisors.

12.2. If a claim or complaint have a formal defect that can be remedied by the customer, the term will be suspended until the remediation by the client. Once remedied, the term will be resumed.

12.3. In claims or complaints submitted by customers in relation to payment services and particularly about their rights and obligations derived from Royal Decree-law 19/2018, of November 23, on payment services and other urgent financial measures, the file will be finished within the period of fifteen (15) business days following the receipt of the claim or complaint by the Branch. Exceptionally, if no response may be provided in a period of fifteen (15) business days for reasons beyond the control of the Branch, the Service shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the claim and specifying the deadline by which the customer will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed one (1) month. In the event that a decision has not been issued within the general period of fifteen (15) working days or, where appropriate, within the exceptional period communicated by the Branch to the customer, the complainant may submit a claim to the Claim Service of the Bank of Spain.

13. Contents of the decision and notification

13.1. The Service must specify the grounds for any decision it enters for resolving claims or complaints filed before it. The decision must contain clear conclusions concerning whatever has been requested by the customer, and must be based on the applicable statutory provisions, contractual clauses, transparency and customer protection regulations, as well as on sound practices. If the Customer Care Service differs from the views adopted in previous similar proceedings previously, the reasons for the change of views shall be stated.

13.2. The decisions entered by the Customer Care Service shall explicitly mention that if the complainant disagrees with the outcome, he is entitled to resort to the Claims Service of the Bank of Spain or any other competent supervisors.

13.3. Once the decision is handed down, the complainant shall be notified of the decision within a term of ten (10) calendar days of issuing it, using the same means used to file the claim or complaint, unless the complainant has explicitly asked to be notified differently.

14. Effects of the resolutions

- 14.1. Customers are not obliged to accept the resolution of the Service, being entitled to exercise the legal actions they deem appropriate.
- 14.2. The resolution of the Service will be binding for the Branch, but not for the customer. If the resolution is accepted by the customer, he will not be required to waive any rights thereafter.
- 14.3. If the resolution is favourable for the customer, the resolution will be implemented in a maximum period of one (1) month when the Branch has to pay any amount or carry out any action, unless the resolution provides a different period due to the relevant circumstances.
- 14.4. If the customer disagrees with the resolution, or in absence of a resolution after the appropriate resolution period has elapsed, customers that are considered consumers may submit complaints to the claims service of the competent financial supervisor within a period of one (1) year following the submission thereof to the Branch.

CHAPTER IV

INFORMATION DUTIES RELATIONSHIP WITH THE CLAIMS SERVICES

15. Information available to customers

- 15.1. The Branch shall make the following information available to customers at all offices doing business with the public, and on its website:
 - a) The existence of the Customer Care Service, indicating the corresponding postal and email addresses;
 - b) The obligation of the Branch to hear and settle any claims or complaints raised by customers within the relevant period provided in the regulation. Claims and complaints can be submitted by customers to the Service, at any offices opened to the public or by the email set out for such purpose;
 - c) These Customer Protection Rules;

- d) The reference to the Claims Service of the relevant regulators that are competent with respect to the Branch, indicating its postal and email addresses, and stating that customers must file their claims or complaints through the Customer Care Service before contacting the Claims Service; and
- e) References to the regulation on transparency and customer protection in financial services.

16. Annual report

16.1. During the first quarter of each year, the Customer Care Service shall submit to the Branch Manager an explanatory report on the work done within its area of responsibility during the previous year.

16.2. The Annual Report will include at least the following points:

- a) A statistical summary of the claims and complaints handled by the Service, including information on the number of claims and complaints filed, the number admitted for processing and the reasons for rejecting those not admitted, the grounds on which the claims and complaints have been filed and the questions raised in them, as well as the sums or amounts involved,
- b) A summary of the Customer Care Service's decisions, stating whether it agreed with the complainant or not;
- c) The general views taken in the decisions;
- d) Any recommendations or suggestions arising from the Customer Care Service's experience in carrying out its duties, with a view to improving performance; and
- e) Recommendations or suggestions to enhance the relationships between the Branch and its customers.

16.3. In the event that the Branch formulates annual accounts, at least one summary of the Annual Report prepared by the Customer Care Service shall be included in the annual memory.

17. Amending the Rules

17.1. The Rules must be amended through a resolution of the Branch Manager.

17.2. The Bank of Spain will be competent for the review and validation of the Rules and its amendments.