

OJK EXPANDS FINANCIAL SERVICES' CONSUMER PROTECTION REGULATION

Jun 10, 2014

The Financial Services Authority (“**OJK**”) recently issued Circular Letter No. 2/SEOJK.07/2014 on Services and the Settlement of Complaints from Consumers of Financial Service Businesses (“**Circular Letter**”) to implement OJK Regulation No. 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector (“**Regulation**”).

The Circular Letter provides further details on the following:

1. consumer complaint settlement mechanisms and possible settlement of complaints methods;
2. the procedure for the establishment of the financial service provider's dispute resolution unit;
3. human resource training relevant to consumers and the settlement of disputes with consumers;
4. internal control measures to identify possible defects in the consumer complaint settlement mechanism; and
5. reporting to the OJK.

We focus below on the consumer complaint settlement process and possible avenues for the settlement of such disputes and financial service providers' reporting obligations under the Circular Letter.

The Circular Letter applies to financial services businesses, such as commercial and rural banks, parties involved in the capital market, investment consultants, insurance and reinsurance companies, finance companies, pawnshops, pension funds, as well as savings and debt assurance companies. These parties are collectively referred to as **Financial Services Providers**.

The Circular Letter is also relevant to consumers of Financial Services Providers, defined as persons who place funds or use the services of a Financial Services Provider, including

insurance policy holders, investors, and pension fund participants.

Complaint Settlement Process

Financial Service Providers must establish internal policies regarding services and the settlement of disputes including at least the following details:

1. how consumer complaints are received, such as through direct meetings, email and postal services;
2. the procedure for handling consumer complaints in accordance with the Regulation;
3. the procedure for communicating with consumers using a format that is easy to understand; and
4. the obligation to maintain the confidentiality of the data of their customers, unless it is requested by the OJK, for dispute resolution purposes, required by law or regulation or the consumer consents to the disclosure of his/her personal data.

Financial Service Providers may not charge fees for settling complaints or disputes and must also have customer complaint administration procedures. The paperwork records kept for this purpose must provide at least 1) customer's identity; 2) subject-matter of the complaint; and 3) measures taken to resolve the complaint.

Settlement of Disputes

Disputes brought by customers may be settled by either party providing a formal apology or by paying compensation to the consumer.

Financial remedies can only be applied to complaints of financial loss. To be eligible for financial remedies, the complaint must meet the following criteria:

To receive compensation for financial loss, the consumer must submit a written request to the Financial Services Provider within 30 days of discovering that the product or service received is not in accordance with the agreement.

A compensation request cannot exceed the financial loss suffered by the consumer.

Alternative Dispute Resolution

If the above internal dispute resolution procedure fails to result in an agreement between the Financial Services Provider and the customer, one of the disputing parties may initiate litigation. Either party also may choose to resolve the dispute through an alternative dispute resolution process provided for under a separate OJK Regulation.

Obligation to Provide Information

Financial Services Providers must provide information on the status of a customer's complaint through their website, or by post, email or telephone.

Financial Services Providers and their customers can also monitor the development of complaints through the Integrated Consumer Services System of the Financial Services Sector managed by the OJK.

In order keep this system up-to-date and current, the OJK may request information from Financial Services Providers concerning complaints submitted by consumers.

Reporting Obligation

Financial Services Providers must report all complaints from their customers that involve a financial loss and result in a dispute.

These reports must be submitted every quarter to the OJK, on the tenth of January, April, July and October. All reports must be submitted manually (by post or courier) and electronically through the Integrated Consumer Services System.

If a report is not filed with 3 months of the deadline, the Financial Services Provider will be charged an administrative fine. However, this will not waive its obligation to submit the report.

The Circular Letter will come into force on 6 August 2014.

1. the complaint must contain a demand for compensation for financial loss;
2. the complaint may not contain errors according to an examination conducted by the Financial Services Provider;
3. the product or service received is not in accordance with the product or service agreement; and
4. The consumer must have suffered a material loss, and complied with his/her obligations.