



# Consumer Protection

**Consumer protection** refers to laws and policies designed to protect consumers against unfair trade by (1) enforcing product safety standards, (2) increasing the availability of consumer interest related information, and/or (3) preventing use of deceptive marketing techniques.

## INTRODUCTION

The Financial Services Regulatory Commission Act, Cap 21.10 gives some authority to the Financial Services Regulatory Commission (FSRC) to protect consumers from fraud, deception, and misrepresentation. Section 3(4)(c) of the Act outlines that the Commission is responsible for securing the appropriate degree of protection for consumers having regard to

- i. the differing degrees of risk involved in different kinds of investments or other transactions;
- ii. the differing degrees of experience and expertise that different consumers may have in relation to different kinds of regulated activity; and
- iii. the need that consumers may have for advice and for accurate information.

The FSRC is also responsible for ensuring that Regulated Entities abide by laws that are designed to prevent businesses that engage in fraud or unfair practices to gain an advantage over competitors.

## HOW DOES THE FSRC FULFILL CONSUMER PROTECTION RESPONSIBILITIES?

The FSRC performs its own monitoring activities, and conducts an investigation if a customer or another entity makes a complaint. During on-site examinations, Regulated Entities are asked to provide a copy of their promotional material as well as a log of customer complaints and supporting documentation. The Examiners will then review the information to determine whether customer complaints are dealt with efficiently and effectively as well as to ensure that the entity is not advertising false product/services or any product/service it is not licensed to provide. Customers of Regulated Entities can make complaints directly to the FSRC. The FSRC will then carry out the necessary investigations to uncover any violations.

If there is evidence of a breach, the Entity could face penalties.

## MEETING REQUIREMENTS



The products/services offered by an entity must be of reasonable quality, fit for their intended purpose and match any descriptions given. To ensure that a product/service meets the needs of the customer as well as legal requirements, Regulated Entities should monitor and review customer returns, complaints and feedback to identify potential issues. Entities should also conduct their due diligence and market research prior to offering a product or service to familiarize themselves with the industry standards and regulations and to ensure that the product/service is suitable for the intended customers.



### Topics Discussed:

- ⇒ Introduction
- ⇒ How Does The FSRC Fulfill Consumer Protection Responsibilities?
- ⇒ Meeting Requirements
- ⇒ Handling Customer Complaints
- ⇒ Actions That Can Be Taken By A Customer
- ⇒ Consumer Protection Business Tips
- ⇒ Penalties For Violating Consumer Protection Laws
- ⇒ Legislative reference

## HANDLING CUSTOMER COMPLAINTS

It is important to deal with customer complaints quickly and fairly. This does not mean that you have to agree to remedy every complaint. This also does not indicate that you have to make an immediate decision on a complaint. However, a customer's complaint should be taken seriously and addressed as soon as possible.

It is the customer's rights to file a complaint if they have received a faulty product or substandard service. It is also your right to investigate before deciding what to do. Find out as much as you can before you decide what, if any, remedy to offer. Even if a customer makes a complaint that seems unreasonable, or they do not give you enough information to support the complaint, you should be polite but assertive. You should know when to provide a remedy to a customer's problem, and at times when it is fair to turn down a complaint. In most cases, you do not have to provide a refund, repair or replacement if the customer:

- \* changes his/her mind;
- \* caused the problem either by accident or on purpose;
- \* does not follow your advice about a product's use or care;
- \* goes to someone else for repairs before coming to you; or
- \* experienced a service problem that was outside of your control, e.g. a natural disaster



If a decision has been made not to reverse or rectify the issue leading to the complaint, you must explain to the customer clearly why that decision has been taken. Be sure to keep a log of all customer complaints and supporting documents to justify the decision taken. Regulated Entities should also have established procedures to deal with customer complaints. These are reviewed by Examiners of the FSRC during on-site examinations.

## ACTIONS THAT CAN BE TAKEN BY A CUSTOMER

If a customer is not satisfied with a product or service, they should first file a complaint with the company that sold it or provided the service. Subsequently, if the customer believed that the complaint was not addressed fairly, they can :

1. Report their complaint to the Regulatory Body to trigger an investigation; and/or
2. Consider litigation proceedings against the company.



## CONSUMER PROTECTION BUSINESS TIPS



### Do's:

- \* Be aware of consumer protection laws, as well as, other legal requirements to avoid violations.
- \* Provide customers with a written receipt or copy of the sales contract to allow for cancellation or refunds where necessary.
- \* Inform customers of your return policies.
- \* Uphold warranties.
- \* Provide necessary refunds, repairs and replacements.
- \* Conduct market research on product/service to collect pricing and other relevant information before offering it.
- \* Keep a log of all customer complaints.
- \* Strive to comply with consumer protection laws and ethics at all times.



### Dont's:

- \* Knowingly sell faulty products or substandard services.
- \* Oversell or otherwise mislead customers about a product or service.
- \* Fail to tell customers important information.
- \* Advertise false or deceptive information about a product or service.
- \* Refuse to accept returned products that are faulty.
- \* Sell using unfair practices or unfair contract terms. Some examples of unfair terms are: seeking to exclude liability unreasonably; giving the consumer an unreasonable timescale in which to raise disputes; having a cancellation policy which grants more favourable rights to the supplier than to the consumer; having a term which allows a supplier to change the terms of the contract unilaterally; and allowing the supplier to change the price of goods without giving the consumer the right to cancel.
- \* Ignore or delay looking into customer complaints.

## PENALTIES FOR VIOLATING CONSUMER PROTECTION LAWS

Depending on the severity of the violation, the FSRC can issue a cease-and-desist order, bring a civil lawsuit and seek a court injunction to stop questionable advertisements.

### Reference:

- Financial Services Regulatory Commission Act, Cap 21.10