

PSD2 rules on Complaint Handling

January 2018



New PSD2 rules on complaints handling came into force 13 January 2018.

Background

PSD2 came into force on 13 January 2018, it sets out new requirements for dispute resolution, including revisions to timeframes under which complaints related to payments services must be resolved. In addition there are also new complaint reporting requirements, which will come into effect on 13 July 2018.

The new requirements introduce significant differences in response times for PSD2 complaints versus other financial services complaints. Firms need to ensure their systems, processes and practices properly cater for and deal with these. Although costs incurred will vary depending upon the size of the firm, it is estimated costs for implementing the necessary changes may reach up to £9 million for larger firms.

Below we have highlighted the key changes to the way complaints are to be handled and also noted points firms may wish to consider in relation to changes they will need to make to ensure compliance.

Key Changes

Shorter response time frame

- Firms must give a full written response to complaints that involve rights and obligations under PSD2 within 15 business days, or 35 business days in exceptional circumstances. This is significantly shorter than the current response period of 8 weeks.

Keeping the complainant informed

- Firms must inform a customer if their complaint is classified as warranting exceptional circumstances and indicate the reasons for the associated delay.

FOS Complaints

- As is the current process, as soon as the consumer receives a final response they can refer their complaint to the Financial Ombudsman Service ("FOS"), even if it is within 15 days.
- To reflect PSD2's shorter response time frame, consumers have the right to refer their complaint to the FOS 35 business days after the firm has received their complaint, or after 15 business days where they have not received a holding response.

FCA Reporting

- PSPs and e-money issuers will need to complete the new Payment Services Complaint Return on an annual basis, unlike the current complaints return that is completed twice a year.

Considerations for firms

Immediate considerations

- Firms should ensure they are able to identify and triage PSD2 complaints, including separating out elements of multifaceted complaints into PSD2 and non-PSD2.
 - Can staff and/or systems distinguish a PSD2 complaint?
- Firms should ensure they provide written responses to PSD2 complainants within 15 business days.
 - What are exceptional circumstances and who deals with these complaints?
- Firms should establish liability for different PSD2 complaint scenarios, i.e. where there is a failure to execute a payment.

Operational considerations

- Firms should consider staff competence needs and assess whether training is sufficient to allow complaints to be dealt with appropriately.
- Firms may wish to consider testing their new processes, controls and governance implemented to ensure new complaints handling rules are met and will withstand regulatory scrutiny.
- Firms may wish to assess whether upgrades or enhancements need to be made to their reporting systems and processes in order to provide accurate complaints data to the FCA as required.
- Firms may wish to consider updating policies and procedures to ensure they accurately reflect the new complaints handling requirements.

How we can support clients

We have significant experience of supporting clients in relation to complaints handling which include assistance with complaint handling governance arrangement, policies, procedures and processes, and MI/root cause analysis. We can help to support change strategies and program reviews with experts from our operational, regulatory and technical practices.

Below are further examples of how we can support clients generally around ensuring they meet regulatory expectations and remain compliant.

Regulatory compliance

We can provide regulatory compliance reviews against PSD2 requirements and provide support in terms of the appropriacy of processes and controls.

Business model and strategic analysis

We can provide strategy and business model reviews; using our deep industry insight, we can provide operational and regulatory expertise underpinned by our technology capability to help you make the required changes.

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