

Trends

Robo-Advice

The emergence of Fintech and the provision of financial services via online platforms, commonly referred to as robo-advice has seen this Office receive complaints from consumers of financial services providers dissatisfied with the solutions provided. Solutions, which they assumed provided specific benefits and cover, but would then appear to fall short of what was required or expected issues which more often than not only reveal themselves in the event of a claim.

Regardless of whether the transaction was concluded solely by the complainant via an online platform, or whether utilised in conjunction with a financial service provider ('FSP'), there is still a requirement that any robo-advice solutions conforms to the provisions of the General Code of Conduct for Authorised Financial Services Providers and Representatives ('the Code') be complied with and that the required disclosures be made to ensure that the prospective client is placed in a position to make an informed decision as to whether the specific solution meets his/her financial needs and circumstances.

From the complaints received to date, which would appear to be steadily increasing, this Office has been successful in bringing about positive resolutions by focusing specifically on the nature and extent of the disclosures provided by these online solutions and whether the complainant had been able to appreciate the implications of the selections being made and whether those disclosures had been sufficient to have allowed the complainant the opportunity to make an informed decision.

Forex Investments

There has been an increase in forex investment complaints, where consumers of financial services are lured by the prospects of making what is purported to be quick and easy profits. Whether this is as a result of the current economic climate or as a result of more and more individuals having access to the various social media platforms, there would appear to be a growing trend of individuals investing in forex platforms after having been enticed by social media posts on, for example, Facebook and Twitter. These more often than not turn out to be scams and the funds are ultimately lost.

There is also a growing trend of what is referred to a 'Copy Cat' forex traders. These are individuals and/or entities that are not registered FSPs in accordance with the FAIS Act and who provide prospective clients the 'opportunity' to copy their trades for an agreed upon fee. These entities are not concerned as to whether forex is suitable to the clients' needs and circumstances, but also take no responsibility for any losses incurred, losses that invariably occur without any substantial explanation or justification.

Finally, there are those entities that in an attempt to circumvent the FAIS Act and its corresponding legislation entice clients by offering forex training software, with the promise of turning one into a forex trader. Subsequent to the conclusion of the transaction, the client is then offered broker services by the entity which is then that losses are incurred that are not explained or substantiated.

Banking Complaints

Specifically, complaints surrounding the failure by banks to provide assistance to clients who are the victims of fraud. The banking institutions remain of the view that should any alleged fraudulent act occur as a result of the complainant's personal details being compromised instead of their safeguards having been breached then they are not liable for any losses incurred. This Office has however approached these institutions in a number of matters, an example is provided in the settlements detailed later in this report, where we have requested that in the interests of treating customers fairly that they utilise their significant resources to at least provide assistance to their clients that may assist in any further investigations that will see the complainant receive justice.

Crypto-currency Complaints

This Office is starting to receive on an increasing basis complaints related to investments into such currencies, primarily Bitcoin, where these currencies are being marketed as mainstream investment solutions, and in some instances the performance is even guaranteed. No disclosure is made that these products are unregulated or what the risks associated with these investments are, and the implications that these have on the complainant's investment. Investigations into a few matters are at an advanced stage, and this Office is looking to issue its first determination on this type of investment early in the 2019/2020 financial year.

Replacement Policies

There has been an increase in complaints surrounding the replacement of existing policies, specifically long- and short-term insurance policies. This too may be systemic of the economic climate but this Office has noted that more and more policies are being replaced in favour of a more affordable policy, which may provide temporary relief on a monthly basis, but often comes with reduced benefits or higher excesses that are often only discovered in the event of a claim. Whilst the Code does provide for FSPs to specifically disclose to a prospective client the implications and consequences associated with a replacement, and to maintain a record of such disclosures having been made, the records provided to this Office fall short of what would be required for one to have made an informed decision as to the appropriateness of the replacement policy.

It is also noted that the updated Policy Holder Protection Rules do now provide greater protection to consumers, by placing a greater responsibility on the product providers themselves to ensure that such transactions and in fact the conduct of those intermediaries who market their products and services are in keeping with what is in the client's best interests. This is an aspect that this Office has been emphasising in complaints related to specifically the replacement of existing policies, where product providers can no longer place the sole responsibility and blame on the intermediary who rendered the financial service.