



Bank of Namibia

**USER COMPLAINTS GUIDELINE: PAYMENT,
VIRTUAL ASSET AND FOREIGN EXCHANGE
SERVICES**

2024

User Complaints Guideline

Arrangements of paragraphs

1. DEFINITIONS	3
2. INTRODUCTION	4
3. SHORT TITLE	4
4. APPLICATION	4
5. OBJECTIVES	4
6. LODGING COMPLAINTS TO A REGULATED ENTITY	4
7. WHEN CAN A COMPLAINT BE LODGED WITH THE BANK	5
8. HOW TO LODGE A COMPLAINT WITH THE BANK	6
9. SUBMISSION OF USER COMPLAINT FORM TO THE BANK	6
10. RESOLUTION OF USER COMPLAINTS BY THE BANK	6
11. DECISIONS OF THE BANK	7
12. RECONSIDERATION	7
13. COMPLAINTS NOT DEALT WITH BY THE USER COMPLAINTS GUIDELINE	8
14. PROCESS FLOW FOR LODGING COMPLAINTS TO THE BANK	8
15. CONFIDENTIALITY OF INFORMATION	9
16. ADMINISTRATIVE PENALTIES	9
17. TRANSITION PROVISION	9
18. EFFECTIVE DATE	9
19. ENQUIRIES	9

1. DEFINITIONS

“Authorised Dealer with Limited Authority” (ADLA) means an authorised dealer in foreign exchange with limited authority which are authorised by the treasury to deal in foreign exchange in a limited specified category of transactions;

“Authorised Dealer” means, in relation to any transaction in respect of gold, a person authorised by the treasury to deal in gold and in relation to any transaction in respect of foreign exchange, a person authorised by the treasury to deal in foreign exchange;

“Bank” means the Bank of Namibia referred to in section 2 of the Bank of Namibia Act, 2020 (Act No. 1 of 2020);

“Business days” means any day of the week other than a Sunday or a public holiday referred to in, or declared under, the Public Holidays Act, 1990 (Act No. 26 of 1990);

“Currency and Exchanges Act” means the Currency and Exchanges Act (Act No. 9 of 1933);

“Payment services” means services relating to the facilitation of payment instructions, the issuance and acquiring of payment instruments or electronic money and any other services incidental to executing payments or transferring of funds, as specified under the Schedule of the PSM Act;

“Payment service provider” means a person, including a banking institution, licensed under the PSM Act to provide payment services as specified under the Schedule;

“PSM Act” means the Payment System Management Act, 2023 (Act No. 14 of 2023);

“Regulations” means the Exchange Control Regulations of 1961, as amended;

“Regulated entities” means payment service providers, virtual asset service providers, authorised dealers, and ADLAs as regulated by the Bank;

“VA Act” means to the Virtual Assets Act, 2023 (Act No. 10 of 2023);

“Virtual asset services” means all or any of the activities specified in Part 1 of Schedule 2 of the VA Act;

“Virtual asset service provider” means a person that by way of business provides virtual asset services for or on behalf of another person; and

“User” means:

- (a) any person that uses a payment service in their capacity as a payer or a payee or both in terms of the PSM Act; or
- (b) a person that uses virtual asset services offered by a virtual asset service provider; or
- (c) a person that uses the services of an ADLA or authorised dealer with respect to foreign exchange transactions.

2. INTRODUCTION

- 2.1. The User Complaints Guideline establishes the complaint handling procedure of the Bank under the PSM Act, VA Act, and the Currency and Exchanges Act. The User Complaints Guideline provide the process of lodging a complaint with the Bank where a complainant is dissatisfied with the decision of a regulated entity in resolving the complaint or where a complainant does not receive a decision on their complaint within fifteen (15) business days from the date of receipt of the complaint by the regulated entity. Complainants are guided to familiarise themselves with the process outlined in this User Complaint Guideline to lodge a complaint with the Bank.

3. SHORT TITLE

- 3.1. This Guideline will be referred to as the User Complaints Guideline.

4. APPLICATION

- 4.1. The User Complaints Guideline apply to claims with respect to payment services offered under the PSM Act, virtual asset services offered under the VA Act, and foreign exchange transactions under the Currency and Exchanges Act.

5. OBJECTIVES

- 5.1. The User Complaints Guideline aim to ensure:

- (a) that users have access to adequate complaints handling and redress mechanisms that are accessible, fair, accountable, timely and efficient;
- (b) that the complaint mechanisms do not impose unreasonable cost, cause undue delay or impose a burden on users;
- (c) that users are protected through the promotion of fair and equitable payment, virtual asset and foreign exchange services;
- (d) the fostering of public confidence and trust in the national payment system and foreign exchange market; and
- (e) that sufficient and accessible information is provided to users on their right to redress.

6. LODGING COMPLAINTS TO A REGULATED ENTITY

- 6.1. **Lodging of complaints:** a user of a regulated entity who is aggrieved by an act or omission by that entity may make a complaint in writing for remedial action.

- 6.2. **Acknowledgement of complaint:** upon receiving the complaint, the regulated entity must acknowledge receipt of the complaint in writing within five (5) business days.

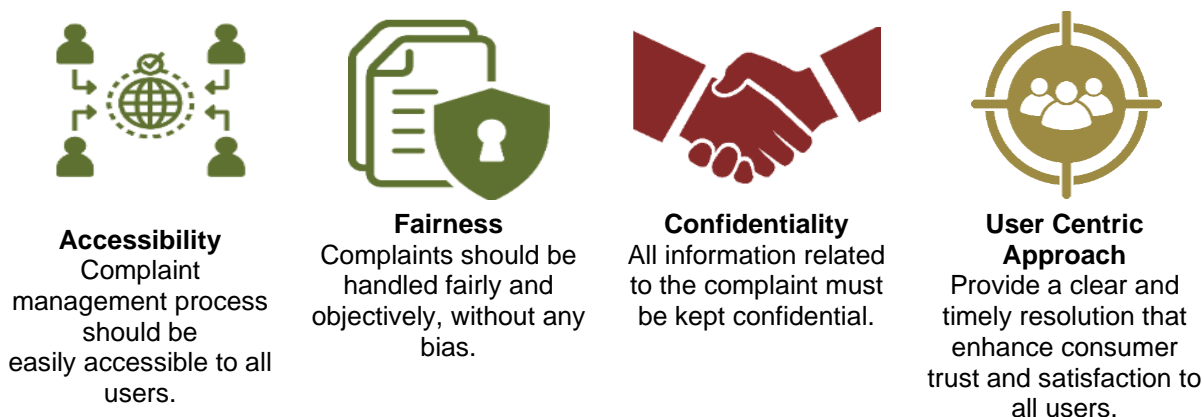
- 6.3. **Investigation of complaint:** the regulated entity must investigate the complaint thoroughly, gathering any necessary information and reviewing the details of the complaint.

- 6.4. **Decision:** a complaint made under subsection 6.1 of this Guideline must be dealt with by the

concerned regulated entity and a written reply, stating the decision of the entity must be given to the complainant no later than fifteen (15) business days from the date of receipt of the complaint. The written reply to the complainant should provide an explanation for the reason behind the decision; any remedial action to be taken by the concerned regulated entity; and information on how to escalate the complaint to the Bank if the complainant is dissatisfied with the decision.

6.5. Record keeping and reporting: the concerned regulated entity must have access and maintain record of all complaints lodged during the course of its operation for a period of five years from the date of receipt, along with their outcomes and report such complaints to the Bank quarterly.

6.6. Principles of complaint management: the Regulated Entity must adhere to the below principles of complaint management.



6.7. Process flow of lodging complaints to the regulated entity:



7. WHEN CAN A COMPLAINT BE LODGED WITH THE BANK

7.1. A user of a regulated entity may only lodge a complaint with the Bank, if:

- (a) the complaint relates to an act or omission of a regulated entity in offering payment, virtual assets or foreign exchange services in Namibia;
- (b) the user lodged a complaint in writing to the regulated entity concerned for remedial action and-
 - i. the complainant is dissatisfied with the decision of the regulated entity in resolving the complaint; or
 - ii. the complainant did not receive a decision from the concerned regulated entity within fifteen (15) business days from the date of receipt the complaint.

8. HOW TO LODGE A COMPLAINT WITH THE BANK

- 8.1.** A user may lodge a complaint with the Bank by completing the Bank's User Complaint Form (clearly marked as "User Complaint Form: Payment, Virtual Asset and Foreign Exchange Services") and submitting it at the Bank's premises or via email at User.Complaints@bon.com.na.
- 8.2.** The User Complaint Form can be obtained in the following ways:
- (a) at the Bank of Namibia head office at 71 Robert Mugabe Avenue, Windhoek, and at the Oshakati branch at 909 Sam Nujoma Road, Oshakati;
 - (b) by electronic mail at User.Complaints@bon.com.na;
 - (c) on the Bank's website; and
 - (d) by any other manner or at alternative addresses set out by the Bank from time to time.

9. SUBMISSION OF USER COMPLAINT FORM TO THE BANK

- 9.1.** To lodge a complaint with the Bank, the complainant should submit a completed User Complaint Form, which should include the following information:
- (a) the name and contact details of the complainant;
 - (b) the name and address of the concerned regulated entity, inclusive of the name of the staff member who dealt with the complaint;
 - (c) an accurate, concise statement of the facts that gave rise to the complaint and the basis on which it is alleged that the concerned regulated entity may have acted or omitted to act;
 - (d) a clear and short statement of the specific relief sought;
 - (e) where the person who lodges a complaint is acting on behalf of another person, company, or organisation, he/she must state in writing the capacity in which he/she is acting and the reason for doing so;
 - (f) supporting documentation relating to the complaint, inclusive of the initial complaint and correspondences with the concerned regulated entity; the decision of the concerned entity in dealing with the complaint; and
 - (g) any other information deemed relevant by the complainant or requested by the Bank.

10. RESOLUTION OF USER COMPLAINTS BY THE BANK

- 10.1.** Upon receiving the completed User Complaint Form, the Bank must acknowledge receipt of the complaint lodged within five (5) business days from the date which the complaint was lodged.
- 10.2.** The Bank must forward the complaint to the concerned regulated entity for its response. The concerned regulated entity must submit its response to the Bank within five (5) business days,

inclusive of supporting documentation.

- 10.3.** The Bank must forward the concerned regulated entity's response to the complainant to provide the Bank with a response within a period of five (5) business days.
- 10.4.** The Bank may further engage the complainant and the concerned regulated entity on the complaint during the process of resolving the complaint.
- 10.5.** The Bank may request additional information or documentation from the complainant or the concerned regulated entity relating to the complaint and may specify the timeframe and the manner in which such information or documentation should be submitted.
- 10.6.** If a party to a dispute is unable to comply with any time limit stipulated in this User Complaints Guideline, that party may, prior to the lapse of the stipulated time period, request an extension of time from the Bank, not exceeding a period of seven (7) business days or a further period agreed to by the Bank upon good cause shown.

11. DECISIONS OF THE BANK

- 11.1.** The Bank must resolve the complaint within a period of fifteen (15) business days from the date of receipt of the complaint, which decision will be communicated to the complainant and the concerned regulated entity.
- 11.2.** If the Bank is unable to render a decision within fifteen (15) business days, the Bank must inform the complainant and/or concerned regulated entity of its inability and state what measures are being taken to address the matter urgently, which decision must then be rendered within a further maximum period of seven (7) business days after the lapse of the aforesaid fifteen (15) business days.
- 11.3.** Once the Bank has communicated the outcome of the complaint to the complainant and the concerned regulated entity, the Bank considers the matter resolved and closed.

12. RECONSIDERATION

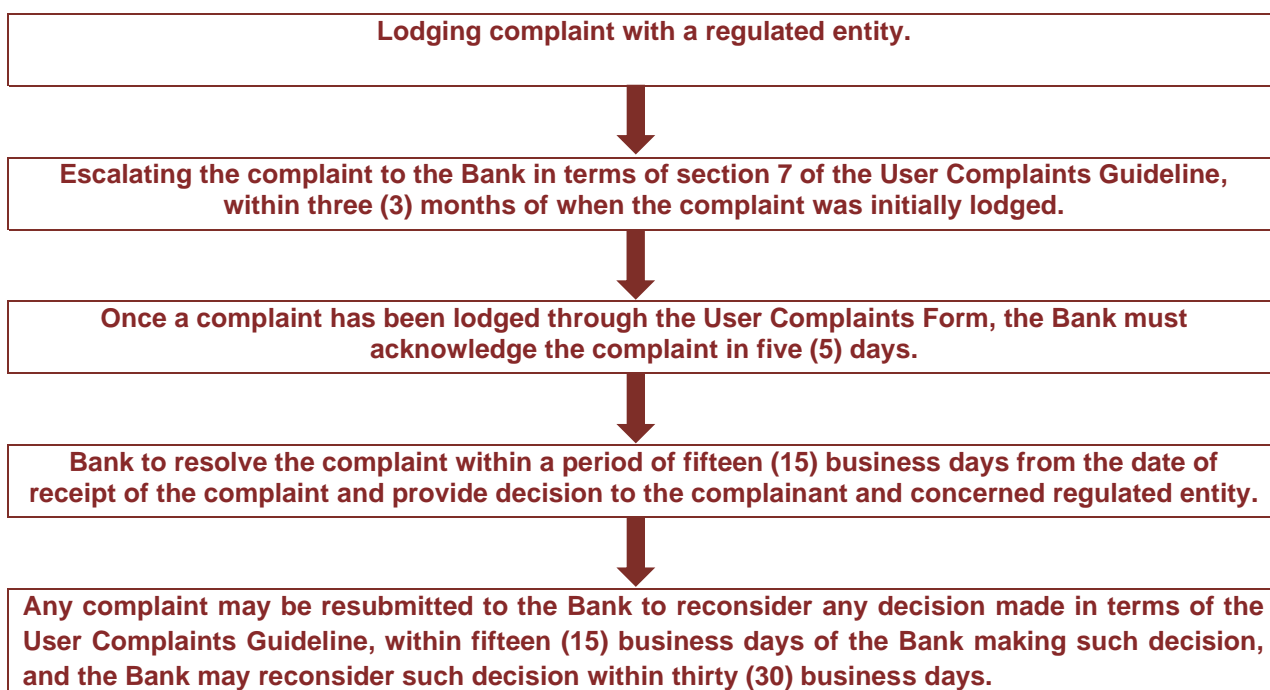
- 12.1.** Any complaint or concerned regulated entity may request the Bank in writing to reconsider any decision made in terms of this User Complaints Guideline, within fifteen (15) business days of the Bank making such decision, and the Bank may reconsider such decision within thirty (30) business days from receipt of such request.
- 12.2.** A complainant or concerned regulated entity submitting a request for reconsideration, should provide the grounds for such reconsideration, inclusive of supporting documents.
- 12.3.** Any complainant or concerned regulated entity not satisfied with a decision made in terms of this User Complaints Guideline, has the right to seek redress from a Court of law.

13. COMPLAINTS NOT DEALT WITH BY THE USER COMPLAINTS GUIDELINE

13.1. By virtue of the PSM Act, VA Act and the Currency and Exchanges Act, the following complaints will not be dealt with by the User Complaint Guideline:

- (a) A complaint that was not first reported to the concerned regulated entity for resolution, except for cases where good cause can be shown why the complaint was not first reported to or dealt with by the concerned regulated entity.
- (b) A complaint that was not reported to the Bank within three (3) months from the date the complainant received the decision from the concerned regulated entity on the initial complaint, unless good cause can be shown as to why the Bank should entertain the complaint outside the specified period.
- (c) A complaint that does not relate to an act or omission of a regulated entity in the provision of payment services, virtual asset and foreign exchange services, respectively.
- (d) A complaint where a decision is pending or has been made by a Court of Law.
- (e) A complaint that can best be resolved by a Court of Law or through any other available dispute resolution process, for example, complaints where the resolution requires an outcome beyond the Bank's mandate.
- (f) A complaint on the same facts logged by the same complainant, that has been resolved by the Bank.

14. PROCESS FLOW FOR LODGING COMPLAINTS TO THE BANK



15. CONFIDENTIALITY OF INFORMATION

- 15.1.** The Bank must maintain the confidentiality of all complaints and documents submitted to the Bank in accordance with section 77 of the Bank of Namibia Act, 2020 (Act No. 14 of 2020).
- 15.2.** All complaints and documents submitted to the Bank by complainants are deemed confidential and will be used for the purpose of resolving the complaint only.

16. ADMINISTRATIVE PENALTIES

- 16.1.** Any person that contravenes or otherwise fails to comply with this User Complaints Guideline will be subject to administrative penalties as provided under the PSM Act, VA Act and Exchange Control Regulation.

17. TRANSITION PROVISION

- 17.1.** Regulated entities are permitted six (6) months after the effective date of the User Complaints Guideline to ensure compliance with this User Complaints Guideline.

18. EFFECTIVE DATE

- 18.1.** The User Complaints Guideline will become effective on date of signature. However, existing regulated entities will be granted a six (6) months grace period to comply with the User Complaints Guideline from date of signature.

19. ENQUIRIES

- 19.1.** All enquiries related to the User Complaints Guideline may be forwarded to:

The Director National Payment System and Financial Surveillance Department
Bank of Namibia
P.O. Box 2882,
Windhoek
Namibia
Email: User.Complaints@bon.com.na


JOHANNES IGAWAXAB
GOVERNOR