



TREATING CUSTOMERS FAIRLY

JULY 2019

UK Finance* recently published a set of [principles](#) to assist banks in managing this potentially awkward exercise. Underpinning the principles is the need to ***treat customers fairly***.

There is ever increasing pressure on banks, especially in the offshore world, to assess their customers regularly. A decision to part company may be driven by:

- risk management – if the customers are located in geographically sensitive jurisdictions or involved in high risk businesses, which may lead to increased risk of AML/terrorist-financing/illegality issues;
- strategic or business planning – customers who no longer fit the bank's target customer profile (for example, decreased net worth);
- customer conduct – defaulting customers, breaches of the bank's terms and conditions, abusive behaviour, etc.

Banks are in a unique position when it comes to the services they offer. They play an essential role by providing accounts, loans, mortgages to consumers and businesses. Even with the rise of competing providers of finance, banks still dominate the market with their reach. Against this backdrop, the need to balance profit against risk and reputation has never been greater.

In essence, UK Finance recommends that:

1. all customer assessments be undertaken in a proportionate, objective and non-discriminatory manner;
2. communications should be tailored, sensitive and clear. The use of plain English is highly recommended;
3. following an exit decision, the bank should:
 - ensure that its decision has been reviewed by a person with sufficient authority before communicated
 - take into account the sensitivities of the customer
 - provide a route for representations by the customer, or for appeals to be made against the final decision
 - give the customer time to make alternative arrangements with another service provider

These principles appear to be sensible and pragmatic but not always achievable on every occasion. Sometimes there is a need to act quickly for damage limitation reasons or when a bank's reputation is at risk. Nonetheless they provide guidance in cases where the circumstances surrounding the exit are less urgent or controversial.

Legal impact

These principles do not have legal effect and they do not alter the contractual relationship between the bank and its customer. They

WE ARE OFFSHORE LAW

BVI // Cayman // Guernsey // Jersey // London // Singapore





come into play once the bank has determined that it is in a position legally to terminate the banking relationship with its customer. If there is any question about the bank's ability to terminate and the legal process involved, the T&Cs should be checked and updated if necessary.

*[UK Finance](#) is an industry body representing over 250 firms across the banking and finance sector, working to enhance competitiveness, support customers and facilitate innovation.

FOR MORE INFORMATION PLEASE CONTACT:



SEAN CHEONG

Partner // Guernsey

t:+44 (0) 1481 734202 // e:sean.cheong@collascrill.com



KERRIE LE TISSIER

Professional Support Lawyer //

e:kerrie.letissier@collascrill.com

WE ARE OFFSHORE LAW

BVI // Cayman // Guernsey // Jersey // London // Singapore

