

The Independent Standards Framework Complaints Process for Invoice Finance and Asset-Based Lending

Complaints Process

An independent Standards Framework for the invoice finance and asset-based lending industry in the United Kingdom has been in operation since 1 July 2013.

The Framework comprises three key components:

- The Invoice Finance and Asset-Based Lending Code and Guidance;
- The independent Complaints Process; and
- The Professional Standards Council.

This document sets out how the independent Complaints Process operates. It complements and should be read in conjunction with the Standards Framework Code Document.

Full details about the Framework can be found [here](#). Links to all related documents are compiled at the end of this document.

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The Independent Standards Framework Complaints Process for Invoice Finance and Asset-Based Lending

Provided by the UK Finance Invoice Finance and Asset-Based Lending Product and Service Board.

Introduction

The Complaints Process provides an independent system for clients¹ who believe they have been treated unfairly by a UK Finance Invoice Finance and Asset-Based Lending (IF/ABL) Member. The Process allows complaints to be independently considered and adjudicated upon.

The Complaints Process is designed to be:

- Independent;
- Accessible;
- Focused; and
- Effective.

The independent Complaints Process for the Invoice Finance and Asset-Based Lending industry is currently provided by **CEDR Services Limited (CEDR)**, a specialist dispute resolution organisation.

There will be no charge for a complainant to access the Complaints Process regardless of whether the complaint is ultimately upheld or not. CEDR costs associated with dealing with particular complaints will be met by the IF/ABL Member involved.

The Complaints Process is available to all clients of IF/ABL Members and provides an alternative method to costly legal action to take forward any concerns about their treatment.

From 1 January 2021, the maximum that can be awarded by CEDR is £50,000. This is subject to the issue(s) relating to a complaint relating to an action occurring on or after this date. For complaints where the issue(s) occurred prior to 1 January 2021, the maximum award is £28,000. This figure is subject to review from time to time.

Please note, to make a complaint about an IF/ABL Member it is necessary to complain formally to the IF/ABL Member involved to allow them the opportunity to address the issues raised. Once this has been done a complaint can be registered with UK Finance and then considered under the independent Complaints Process.

Please also note, CEDR will not currently accept complaints about IF/ABL Members directly from a complainant. Please contact UK Finance in the first instance to register a complaint about an IF/ABL Member.

¹ 'Client' is the default term used in this document. However, for clarity (subject to the considerations set out in this document), the Complaints Process is open to clients, prospective clients and also the guarantors/indemnifiers of clients and prospective clients of a UK Finance IF/ABL Member company. In addition, a complaint can be received from an authorised representative of the above. Please refer to the **Eligibility** section below for further information.

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IF/ABL Members' Complaints Processes

IF/ABL Members are required to operate their own complaints processes. The independent Complaints Process complements rather than replaces these processes. All clients and relevant parties should be informed of the Member's own internal complaints process and full information should be publicly available, as a requirement of the IF/ABL Code.

The objective of any complaints process is the successful and fair resolution of a complaint. The IF/ABL Member will normally be best placed to address the issues raised in a complaint. This is why one of the underlying principles of the independent Complaints Process is that the IF/ABL Member must be given an adequate opportunity to consider the complaint. Where it is not possible to resolve the complaint to the satisfaction of the Complainant, the Complainant will then be able to use the independent Complaints Process.

The following must have happened before a complaint is formally accepted into the independent Complaint Process:

- the complaint has been formally registered with the IF/ABL Member involved; and
- the IF/ABL Member has been given up to 12 weeks from the point of a complaint being formally made to achieve a resolution, or the Member has issued a 'Deadlock Letter' (this is an official letter from the IF/ABL Member to the complainant confirming that it has not been possible to resolve a complaint); and
- The complainant has not already accepted a final settlement or resolution in relation to the complaint.

Once a Deadlock Letter has been issued or 12 weeks has elapsed, the complainant is able to formally register the complaint with UK Finance. This should be done by contacting UK Finance directly. UK Finance will log the complaint, ensure that the required basic information is available, and then immediately pass the complaint file on to CEDR.

UK Finance's role in this respect is purely administrative. UK Finance will ensure that the basic information is included to allow the complaint to be progressed as quickly as possible and will then pass the information on to CEDR.

It should be noted that the 12 week time period is intended to be a maximum (see below). It is expected that the vast majority of complaints will be either addressed and/or resolved by IF/ABL Members far more quickly than this. A complaint can be registered and taken to CEDR prior to the end of the 12 week period if the IF/ABL Member confirms Deadlock.

Please see 'How the Complaints Process Works' section below for further information.

Some cases may be more complex than others. In some instances, the independent CEDR *may* grant an extension to the 12 week period if it can be clearly demonstrated that the Member is making substantive progress in addressing the substance of the complaint and that a short extension might permit a successful resolution.

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About CEDR



CEDR is one of Europe's leading Alternative Dispute Resolution (ADR) service providers. CEDR provides dispute resolution services in a number of different industries, including telecommunications, water, aviation and property sectors, and more recently in the invoice finance and asset-based lending sector. These services are delivered in the form of sector specific schemes that have been developed by CEDR in collaboration with multiple stakeholders and regulators over the last 10 years.

CEDR also delivers dispute resolution services on behalf of other membership organisations, working with the Royal Institution of Chartered Surveyors (RICS) and the Solicitors Regulation Authority (SRA). CEDR covers the full spectrum of ADR methodologies including: conciliation, adjudication, arbitration, complaints review, early neutral evaluation and expert determination.

When dealing with complaints about Members, CEDR's aim is to ensure the following:

- To provide an independent, impartial and cost effective means of resolving disputes outside the courts;
- To give an impartial and independent review of complaints; and
- To work with the Professional Standards Council, UK Finance and its Members to improve the service they give to their clients, making recommendations for improvements or change within the industry.

CEDR will consider complaints relating to alleged breaches of the Code and Guidance. In handling complaints, carrying out adjudications and reaching final decisions, CEDR will adjudicate fairly, independently and on a case by case basis.

Further, CEDR will consider what is fair and reasonable in the circumstances, having regard to any relevant legislation or regulations, principles of common law (judge-made decisions), good practice, equitable conduct, contractual obligations and good administration

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Eligibility

Complainants

The Complaints Process is available to certain parties who have a complaint about a UK Finance IF/ABL Member.

The following guidelines will apply:

- The Complainant must be, or was at the time of the action occurring: a client; a prospective client; a guarantor/indemnifier of a client or prospective client, or a former client, of an IF/ABL Member;
- At the point a complaint is received by UK Finance and CEDR, the company about which the complaint relates must be a UK Finance IF/ABL Member; and
- The complaint must be received from an 'Officer' of the business in position at the time that the issue(s) complained about took place, such as a Director or Proprietor (or an authorised representative of the same), or a guarantor or indemnifier who has directly given a personal guarantee and/or indemnity to the IF/ABL Member.

Complaints

The objective of UK Finance and CEDR is to ensure that the independent Complaints Process is as accessible to as many businesses as possible.

A complaint will be eligible for this process if:

- The complaint relates to a factoring, invoice discounting and/or asset-based lending facility or a proposed facility through an existing IF/ABL Member of UK Finance; and
- The action or actions relating to the complaint took place on or after 1 July 2013; and
- The Complainant is not seeking a financial award of greater than £50,000 in relation to the dispute, or £28,000 if the issue(s) relating to the complaint occurred prior to 1 January 2021. This is the maximum figure that CEDR currently has authority to award and CEDR cannot consider cases where the amount sought is clearly in excess of this amount. This figure will be kept under review.

It will not normally be possible for a complaint to be accepted if:

- The Complainant gave the IF/ABL Member notice of the matter which is subject to the complaint more than 12 months before contacting UK Finance or CEDR; or
- The complaint is made to UK Finance more than six months after the Member advised the client that it is unable or unwilling to resolve the complaint to the complainant's satisfaction (i.e. a Deadlock Letter or similar was received more than six months' prior).

CEDR Discretion

It should be noted that CEDR retains absolute discretion to decide whether a complaint is within its jurisdiction. Specifically CEDR:

- Has absolute discretion to refuse to accept (or to terminate consideration of) a complaint, if it is considered that the Complainant has no reasonable prospect of success, recovery or redress in relation to such complaint;
- Will not accept a complaint that has been or is subject to court proceedings, arbitration, or other independent procedure for the resolution of the complaint or dispute (unless there is proof that the aforementioned process has been abandoned, stayed or suspended);
- Will not accept a complaint if it appears that the complaint is frivolous or vexatious;
- Will not reconsider a previously handled case unless significant new evidence has come to the attention of the CEDR that may have an impact on the previously reached decision.

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Other Complaints Bodies

As is the case with most types of commercial finance, factoring, invoice discounting and asset-based lending services are not subject to statutory regulation at the present time in the UK.

The UK [Financial Ombudsman Service](#) will not currently consider complaints which primarily relate to these services and there are no other dedicated external processes available to consider such complaints. This is why the Standards Framework is in place.

However, depending on the nature and size of the Complainant (and a number of other factors), the Financial Ombudsman Service might consider a composite complaint which primarily relates to wider regulated financial services but which also contains an invoice finance or asset-based lending element.

CEDR cannot accept a complaint that is subject to consideration by the Financial Ombudsman Service or any other regulatory or equivalent body.

The Complaints Process is available for complaints about the behaviour of IF/ABL Members in relation to the provision of invoice finance or asset-based lending. It cannot be used for complaints which primarily relate to the behaviour of 'Third Parties' such as advisors, brokers, lawyers or insolvency practitioners. Many of these industries or professions will have their own regulatory or self-regulatory systems in place. Complaints about the behaviour of such Third Parties should be made to the appropriate representative or regulatory bodies.

Reaching a Decision

The professionals at CEDR are experts at dispute resolution. They are trained to listen and to provide a firm and fair helping hand to Complainants. Their objective is to help resolve complaints as quickly as possible with the most appropriate outcome. They do so independently of UK Finance and its IF/ABL Members.

There are four key factors that will be taken into account in the decision-making process for all cases reviewed by CEDR. These are:

- Relevant laws;
- The contract in place between the IF/ABL Member and Complainant;
- The UK Finance Invoice Finance and Asset-Based Lending Code; and
- Fairness and reasonableness.

The Complainant is not obliged to accept CEDR's' Final Decision. If the Complainant does accept CEDR's decision it is binding on the IF/ABL Member and they must put in place any remedy that is required. The Complainant, however, can decline the decision if they wish to; in that case it will not be binding on the Member.

If a complaint is upheld, CEDR has the authority to require any one or more of the following actions from the IF/ABL Member:

- An apology;
- An explanation of what went wrong;
- Any appropriate remedial action that is required;
- A financial award (up to a maximum of £50,000).

CEDR has committed to complete adjudication and issue either a proposed resolution, or a binding Final Decision, within 84 days of receipt of the complaint, for at least 90 per cent of complaints received.

In addition CEDR is able to make reports, observations and/or recommendations to the Professional Standards Council as appropriate about general or specific issues that arise in its consideration of complaints.

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How the Complaints Process works

1. A client or prospective client (or guarantor/indemnifier of a client or prospective client) formally raises a written complaint with the IF/ABL Member.
2. The Member will manage the complaint in accordance with their own complaints process. The Member has a maximum of 12 weeks to review, investigate and - if appropriate - propose a resolution that is acceptable to the Complainant. It is expected that the majority of cases will progress to this stage more quickly than 12 weeks.
3. Three outcomes are then possible:
 - a. A resolution is proposed that is acceptable to the Complainant – CASE IS CLOSED; or
 - b. If no acceptable resolution is reached a Deadlock Letter can be issued summarising the situation and indicating that no resolution is possible; and/or
 - c. 12 weeks elapses since the complaint was formally registered
4. If b) or c) are the result, subject to the parameters noted in the **Eligibility** section above, the complaint can be entered into in this independent Complaints Process.
5. The Complainant must contact UK Finance to register their complaint. This should be done in writing (which includes by email).
6. UK Finance records the complaint, checks that it falls within relevant parameters, compiles basic information (obtaining required consents) and then immediately passes the complaint file to CEDR.
7. CEDR reviews evidence, requests additional documentation from Complainant and Member as required. CEDR conducts any additional adjudications that are required.
8. If appropriate and possible, CEDR recommends an informal resolution to both parties.
9. If both parties accept the informal decision, the Member is bound by the decision and the CASE IS CLOSED
10. If the informal resolution is not accepted by either party, CEDR will complete a full adjudication, and produce a report along with a Final Decision.
 - a. If the Final Decision is accepted by the Complainant, the Member is bound by the decision and the CASE IS CLOSED (the Member cannot refuse to accept a Final Decision).
 - b. If the Complainant rejects the Final Decision, neither party is bound by it.

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Further Information

Please note CEDR will not currently accept complaints about IF/ABL Members directly from Complainants. Please contact UK Finance in the first instance if you wish to register a complaint about an IF/ABL Member through the independent Complaints Process.

Please also note, to make a complaint about an IF/ABL Member it is necessary first to complain formally to the Member involved to allow them the opportunity to address the issues raised. Once this has been done a complaint can be registered with UK Finance and then considered under the independent Complaints Process.

For further information on UK Finance's Invoice Finance and Asset-Based Lending Code, the Complaints Process and other associated elements is available [here](#) or by contacting UK Finance on:

Call: +44 (0)203 934 1456.

Email: ifablstandards@ukfinance.org.uk