

CIRCULAR

Date:	27 January 2023	Ref No.:	ISRV/Distributors/KLR-SM-AS/001-23 Total No. of Pages: 4
To:	UTMC, IUTA, CUTA, PRS Provider, IPRA and CPRA (Distributors)		
Attn:	Chief Executive Officer / Compliance Officers		

DEAR CEO LETTER: SHARING OF THE FEDERATION OF INVESTMENT MANAGERS MALAYSIA (FIMM) SUPERVISORY EFFORTS AND OBSERVATIONS

Dear CEO,

The year 2022 marked the 4th year of FIMM conducting Regulatory Industry Briefing (**RIB**) to representatives from all registered Distributors. As you are aware, RIB is used as a platform for FIMM to create awareness and educate the industry on its regulations as well as to share the observations noted from various supervisory efforts during the year. Such sharing is aimed to enable all Distributors to leverage on the observations raised on other Distributors and enhance own controls to avoid repeating the same conduct.

What are the concerns?

While we have seen improvements on some of the areas that were highlighted during RIB, as shared on 22 November 2022, below are highlights of some of our industry observations:

1. Ineffective monitoring on submissions' deadlines to FIMM

There were still instances of delay in providing notification to FIMM particularly on termination of Consultant(s). Timeliness of such notification is essential to ensure that the public only deals with Consultants who have valid registration status. Other issues on submission to FIMM include timeliness in submitting the Annual Compliance Review

report and Quarterly Complaints. Such a delay could have been prevented if Distributors had a robust monitoring mechanism in adhering to submission timelines to FIMM.

2. Weaknesses in enforcing the implementation of Suitability Assessment Form (SAF)

The completion of SAF for each investor has been mandated under the Guidelines on Sales Practices of Unlisted Capital Market Products which was made effective on 11 October 2018 (Revised on 30 June 2022). However, we still identify occurrences of mismatch between risk profile of investors and products offered. Also, there were instances where the SAF was not updated to reflect the change of the investor investment's risk appetite. On the administrative side, we noted Distributors accepted the SAF that were not fully completed. These indicate weaknesses on Distributors' controls in enforcing the implementation of SAF.

3. Incomprehensive coverage on policies and procedures

Policies and procedures provide guidance in carrying out internal processes and functions. We observed incidence where the operating manual was not updated in tandem with the change in regulatory requirements. This has led to certain Distributors not adhering to regulatory requirements, for examples:

- Non-compliance with the 16 Continuing Professional Development (**CPD**) points during renewal and re-registration of eligible Consultants;
- Statutory Declaration was not signed on a biennial basis during renewal of registration; and/or
- Poor record keeping on Consultants' CPD points where we noted inconsistencies of information between the documents that were submitted to FIMM with information maintained by the Distributors.

4. Continued vigilant required in monitoring Consultants' training records

Part of the fit and proper requirements for registered Consultants is for them to meet the pre-requisite number of training hours yearly. There were instances where the attendance register and training records were incomplete, which had resulted in the inability to determine sufficiency and accuracy of the training information retained at Distributors.

Hence, it raised concerns on Distributors' vigilance in maintaining surveillance on Consultants meeting their training needs.

5. Shortcomings in investigation process

It is essential for all concerns raised in a complaint being assessed/reviewed to ascertain their validity. Based on complaint trends and investigation, there were lack of thoroughness in investigating a complaint as there is a tendency for Distributors to focus on certain issues despite other multiple concerns were also raised by the investor when lodging a complaint. Consequently, there are gaps on investigation process which resulted in disciplinary action taken not being based on holistic review of the alleged misconducts.

There are also other supervisory observations shared during RIB as well as some insight on Anti-Money Laundering / Countering Financing of Terrorism (**AML**): Theory to Practical - Customer Due Diligence, shared by a speaker from the Securities Commission Malaysia.

The highlights of the supervisory observations as well as the slides on AML are attached as **Appendix 1** and **Appendix 2**, respectively.

What's new?

The COVID-19 pandemic phase has also accelerated the shift into the digital landscape. Similarly, FIMM is moving towards its digital transformation, which involve automation on completion and submission of the Annual Compliance Review (**ACR**) Checklist via a web-based platform. Such a move aims to increase efficiency in the submission and review process of the ACR questionnaires with the Distributors. The launch of the automation of ACR is targeted by Quarter 3, 2023.

Additionally, FIMM had commenced conducting post-registration background screening on new Consultants who registered from September 2022 onwards. As highlighted during RIB, this initiative does not absolve Distributors' responsibility in ensuring the Consultants are fit and proper prior to their registration. At the minimum, Distributors are expected to ensure completeness and consistency of information submitted to FIMM, conduct checks against own internal adverse records as well as perform web search for any adverse news. Where there are continuous trends

observed relating to fit and proper of a Consultant, e.g. fake academic certificate, FIMM may consider requiring the relevant Distributor to pay for the screening cost.

What's next?

We would continue to work closely and collaborate with the industry and relevant regulatory bodies, to ensure continuous effort in maintaining high standards of professional conduct of the Distributors and among its Consultants, as well as to maintain good reputation of the UTS and PRS industry.

We hope the contents of this letter is raised to the attention of your Board and/or relevant committee to ensure that applicability of issues raised to the company is assessed, and relevant issues are being addressed accordingly. As mentioned during the RIB, FIMM may exercise its supervisory actions for any non-compliances. This includes, where necessary, the pursuit of enforcement action against Distributors.

Yours Faithfully,



Sahlawati Mustafa

General Manager, Regulatory Services



FIMM
Federation of Investment Managers Malaysia

REGULATORY INDUSTRY BRIEFING

22 NOVEMBER 2022

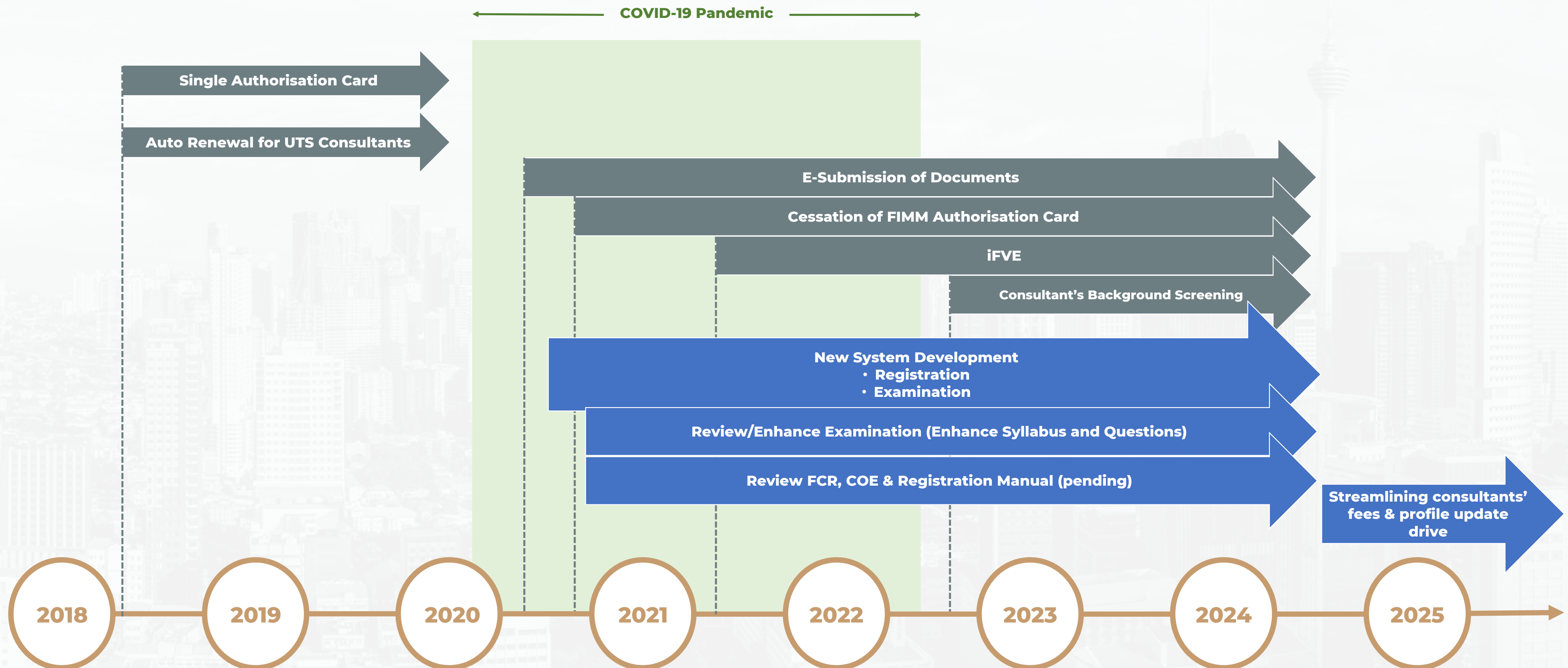
REGISTRATION DEPARTMENT

DEVELOPMENT UPDATES

- **SINGLE REGISTRATION INITIATIVE & NEW REGISTRATION SYSTEM**
- **RENEWAL OF REGISTRATION**
- **BACKGROUND SCREENING INITIATIVES**
- **SUBMISSION OF NOTIFICATIONS & DOCUMENTS**
- **IFVE ABSENT APPEAL**

REGISTRATION DEPARTMENT

SINGLE REGISTRATION INITIATIVE & NEW REGISTRATION SYSTEM



REGISTRATION DEPARTMENT

RENEWAL OF REGISTRATION

**Renewal
Process
Remains
Status Quo**

**Consultants must fulfil the below
for renewal of registration:**



**CPD requirements as per Chapter 7 of
the FIMM's Consolidated Rules (FCR);**



Submission of biennial Statutory Declaration;



Fit & proper requirements; and



Payment of renewal fee.



**Termination must be done by
10 January 2023, 12:00PM for
non-renewal of consultants.**



**Members and distributors must pay all fees incurred
on the Consultants' renewal of registration.**

REGISTRATION DEPARTMENT

BACKGROUND SCREENING

**Starts with
Registration Month
(September 2022)**

Screening includes:

- ✓ **Academic certificate verification;**
- ✓ **Professional qualification & membership status verification;**
- ✓ **Malaysia regulatory / criminal record check**



FIMM will inform the affected distributor on any adverse result from the background screening.



Distributors must conduct further checks and obtain clarifications / supporting evidence from their consultants within a stipulated timeframe as prescribed by FIMM.

Failure which, the consultants will be automatically terminated.

REGISTRATION DEPARTMENT

BACKGROUND SCREENING

**Starts with
Registration Month
(September 2022)**

**Documents submission to
FIMM upon registration:**

Attachment 1



- **Standard Documentation**
- **Signed Consent Form**

Attachment 2



- **CTC of Academic / Professional Certificate**
- **Signed Consent Form**

For re-registration, only Attachment 1 is required.

REGISTRATION DEPARTMENT

BACKGROUND SCREENING

**Starts with
Registration Month
(September 2022)**

Duties of Distributors (Rule 3.1.6):

- 1. Ensure only complete application documents are submitted to FIMM;**
- 2. Conduct due diligence to ensure consistency of information on all documents submitted to FIMM;**
- 3. Check against distributors' own internal adverse records; and**
- 4. Perform web search for any adverse news.**

Rule 3.1.6 of the FCR

A distributor must ensure that its Consultants meet all eligibility requirements before forwarding any application for registration of its Consultants to FIMM.

REGISTRATION DEPARTMENT

SUBMISSION OF NOTIFICATIONS & DOCUMENTS

**Resignation /
Termination of
Consultants**

Statistics on failure to comply to Rule 3.4.4(a)(x):

	Q1 2022	Q2 2022	Q3 2022
Distributor	10	7	7
Consultant	12	9	10

Rule 3.4.4(a)(x) of the FCR

Notification must be made within one (1) business day from the date of resignation, termination or variation of Consultant.

Stringent action will be carried out on non-compliant to the FCR.

REGISTRATION DEPARTMENT

SUBMISSION OF NOTIFICATIONS & DOCUMENTS

**Resignation /
Termination of
Consultants**

Deceased Consultant's status

Status of deceased consultant is not updated in FIS and
no notification sent to FIMM

*Rule 3.4.4(a)(x) of the FCR – Notification must be made **within 1 business day** from the date of resignation, termination or variation of Consultant.*

Stringent action will be carried out on non-compliant to the FCR.

REGISTRATION DEPARTMENT

SUBMISSION OF NOTIFICATIONS & DOCUMENTS

Registration for FIMM Examination

Wk	Mon	Tue	Wed	Thu	Fri	Sat	Sun
1	iFVE Seat Booking Closing			FIS registration & complete documents submission	Late submission		
2	Late submission						
3	Examination Week						
4							

Application will be rejected in FIS without any refund

For further details, kindly refer to the relevant circular issued.

REGISTRATION DEPARTMENT

iFVE ABSENT APPEAL**Technical Errors**

Appeal received by FIMM on technical issues encountered:

	2021	YTD Oct 2022
Total	14	5

- 1. All Distributors are reminded to brief their candidates on technical requirements and rules of iFVE.**
- 2. No refund were/will be entertained for appeal due to technical error, last minute change of email address or exam session.**

REGISTRATION DEPARTMENT

iFVE ABSENT APPEAL

Appeals Accepted for Consideration

FIMM did not accept any kind of appeal except examination result.

2020

To avoid candidates with COVID-19 symptoms to attend physical examination, FIMM allowed appeal by submitting the supporting documents.

iFVE started in Mar 2021

10
October
2022

E-mail sent on 30 September 2022 to operation teams on the update of appeal accepted for consideration.

With effect from 10 October 2022, appeals accepted for consideration must be:

- a. Submitted within 14 days from the date of examination;
- b. Strong and valid supporting documents provided; and
- c. On unfortunate event such as hospitalisation of the candidate, hospitalisation / death of biological immediate family members of the candidate or in the event of the act of God.



SUPERVISION DEPARTMENT

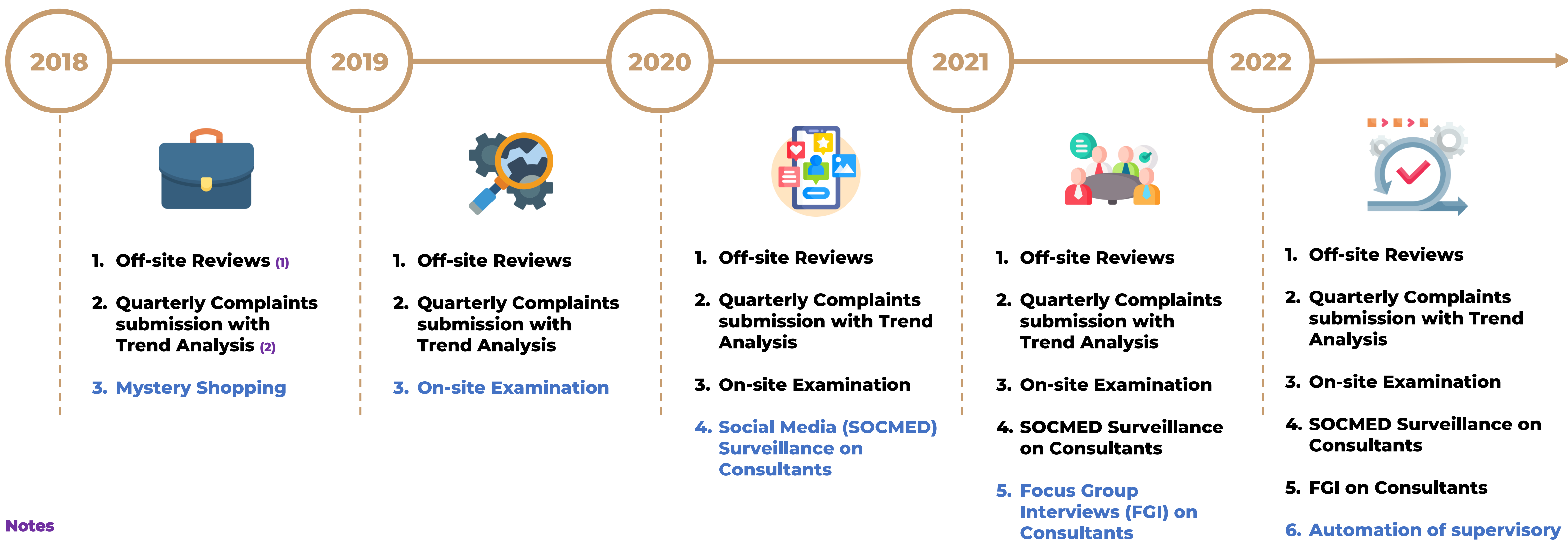
DEVELOPMENT UPDATES

- **EVOLUTION OF SUPERVISION & SURVEILLANCE**
- **KEY OBSERVATIONS & RECURRING FINDINGS**
- **WHAT'S NEW FOR 2023**

SUPERVISION DEPARTMENT

EVOLUTION OF SUPERVISION & SURVEILLANCE

TIMELINE OF PROGRESS



Notes

1. Off-Site Reviews refer to Annual Compliance Review (ACR) and Post-Registration Assessment (PRA).
2. Submission of complaint reports received from Distributors is on a quarterly basis.
3. The **blue font** indicates new supervisory initiative for the year.

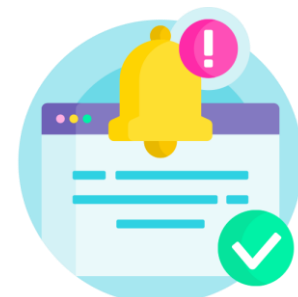
SUPERVISION DEPARTMENT

EVOLUTION OF SUPERVISION & SURVEILLANCE

SUPERVISORY ACTIONS TAKEN



Referral of cases to FIMM's Legal and Regulatory Affairs department, and the SC



Issued Supervisory / Reminder Letters to Distributors



Follow-ups on remedial actions with Distributors

- ACR
- PRA
- On-site Examination
- Supervisory Engagement
- SOCMED Surveillance



Sharing of observations through Regulatory Industry Briefing

- 7 August 2019
- 28 September 2020
- 11 November 2021
- 22 November 2022



Issued Dear CEO Letter

- 21 October 2019
- 4 March 2021
- 12 January 2022

SUPERVISION BULLETIN



An outreach extended to Consultants

The first Bulletin was issued on 8 July 2022

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

THEMATIC EXAMINATION: OBSERVATIONS ON UTMC/PRSP (2019 to 2021)

Notable Findings for UTMC/PRS Provider



50%

Implementation of suitability assessment *



40%

Weaknesses in subscription process with potential money laundering risks



40%

Failure to notify FIMM on Consultants' resignation *



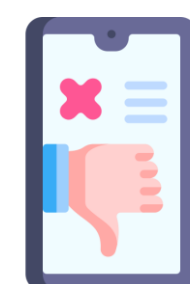
30%

Weaknesses in complaints' monitoring mechanism



20%

Absence of periodic review of policies and procedures



10%

Marketing and distribution of Schemes by persons not registered with FIMM



10%

Failure to notify FIMM on Consultants who are no longer fit and proper



8%

Absence of actions taken on non-compliances observed

Identified Areas for Improvement for UTMC/PRS Provider



80%

Enhancement of policies and procedures *



50%

Gaps in reviewing investor suitability assessment form



40%

Enhancement required on maintenance of training attendance and recordkeeping *



40%

Enhancement required on monitoring functions

* Recurring observations in 2022.

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

SUPERVISORY ENGAGEMENT: OBSERVATIONS ON CUTA/CPRA (2020 to Sept 2022)

Notable Findings for CUTA/CPRA



83%

Inaccurate submission of Annual Compliance Review checklist *



59%

Timeliness in meeting notification and submission requirements to FIMM *



41%

Potential marketing and distribution of Schemes by persons not registered with FIMM *



35%

Failure to comply with FIMM's requirements when implementing multiple-tiered agency structure *



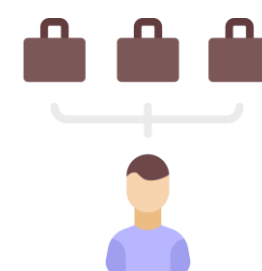
18%

Commission accrued to Consultant was not paid directly into the account of that Consultant *



18%

Weaknesses in complaints' monitoring mechanism



12%

Consultant represents more than one Principal at one time



12%

Incomplete or obsolete Statutory Declaration submitted for renewal of Consultants' registration

Identified Areas for Improvement for CUTA/CPRA



82%

Enhancement required on policies and procedures, including internal documents *



12%

Strengthening the role of compliance functions



12%

Enhancement required on maintenance of training attendance and recordkeeping

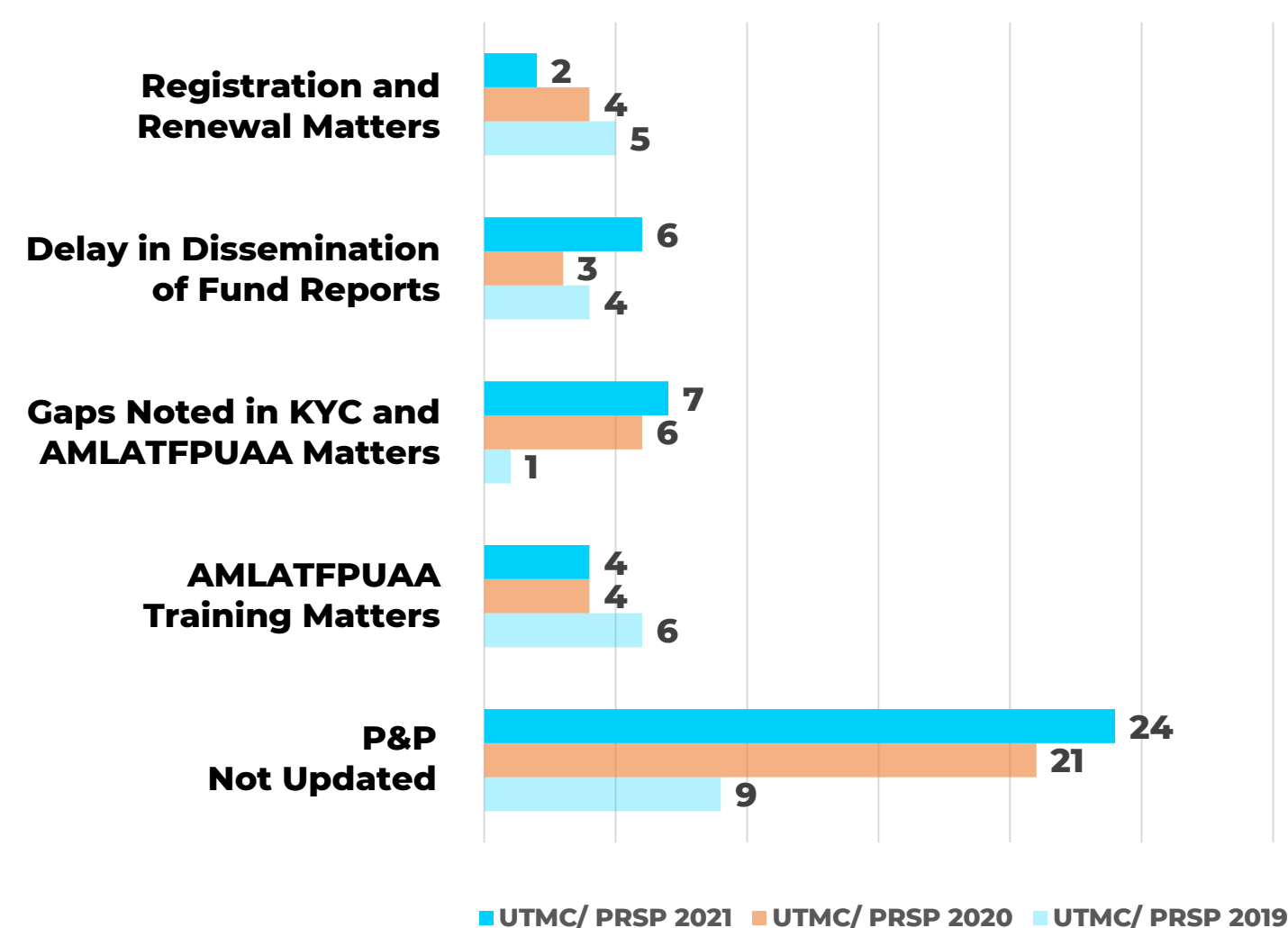
* Recurring observations in 2022.

SUPERVISION DEPARTMENT

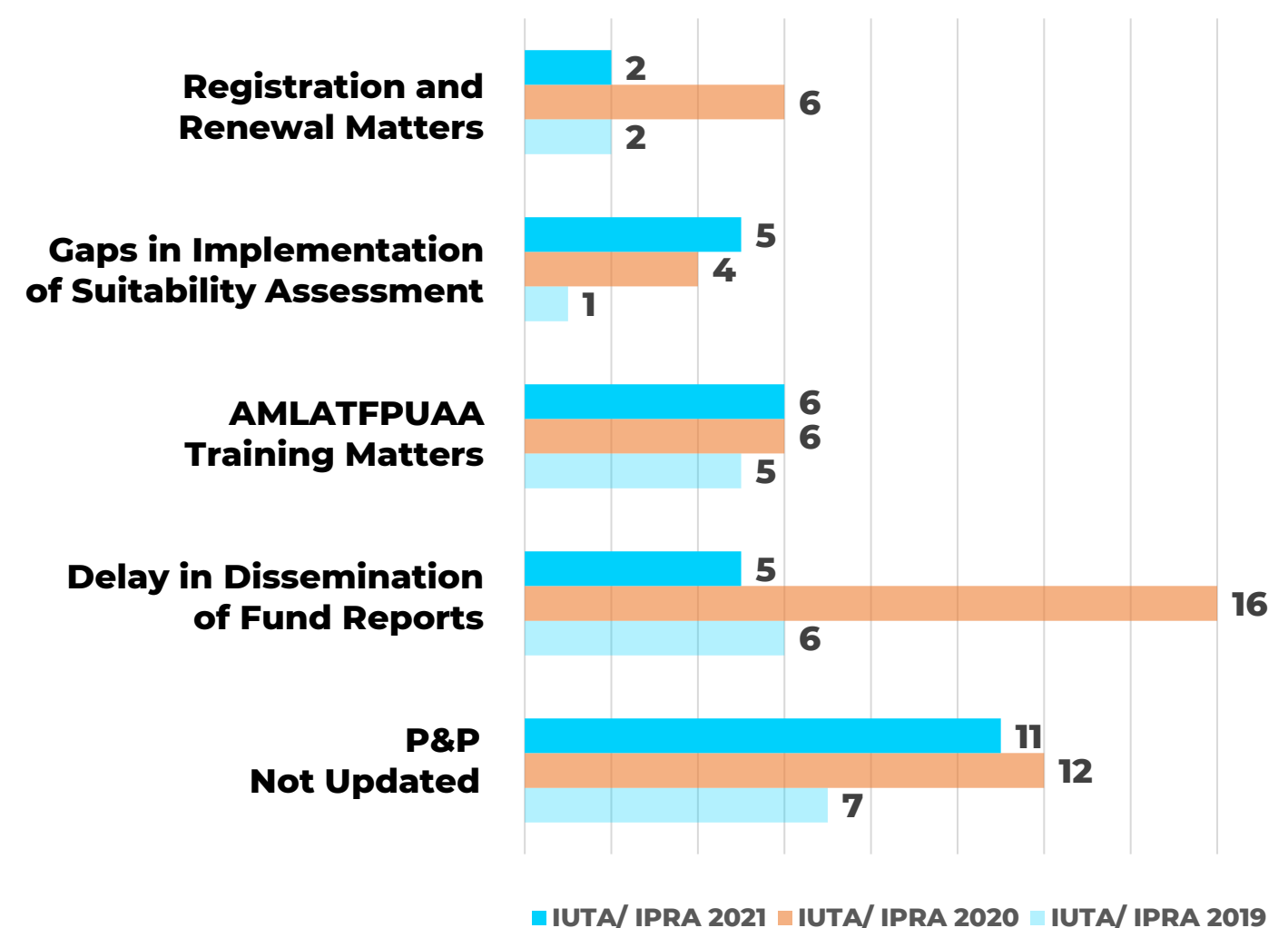
KEY OBSERVATIONS & RECURRING FINDINGS

COMMON OBSERVATIONS FROM ANNUAL COMPLIANCE REVIEW

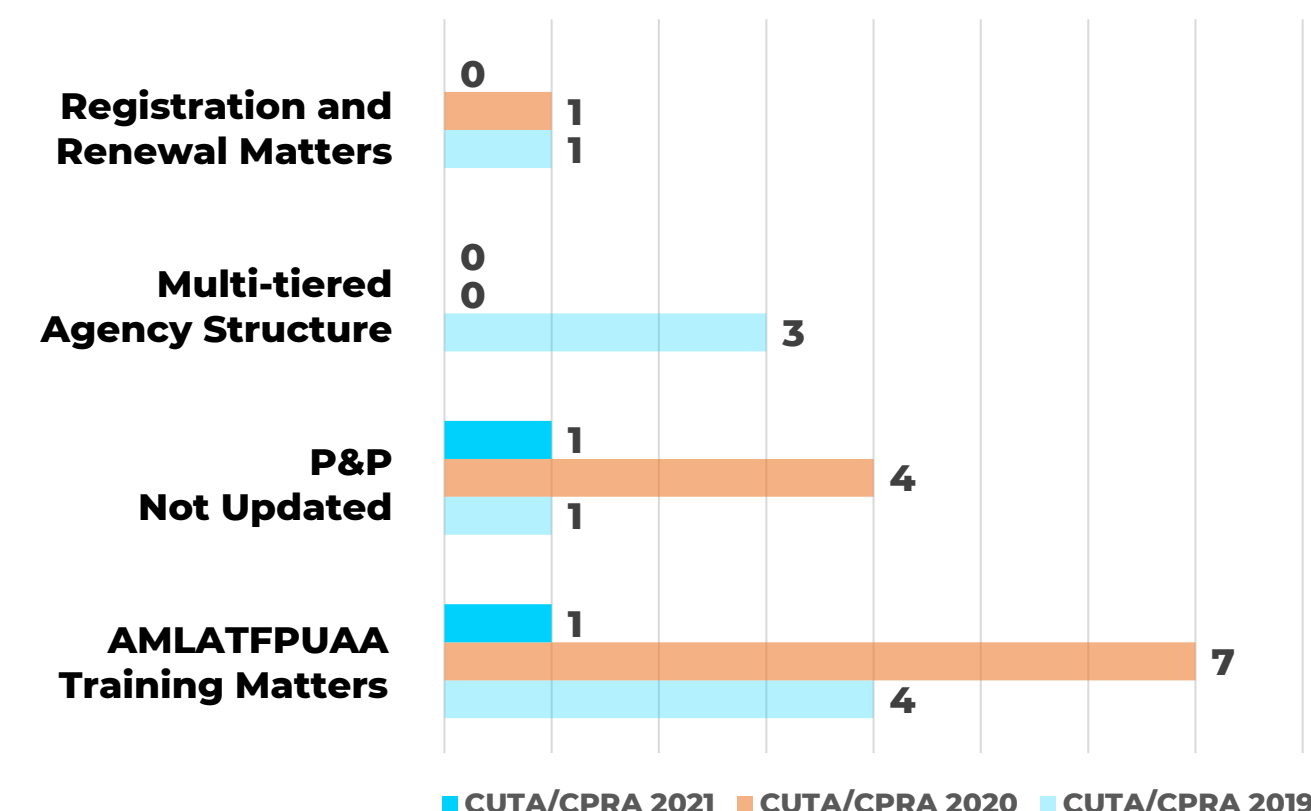
UTMC / PRSP



IUTA / IPRA



CUTA / CPRA



63%
With Findings



37%
Full Compliance

68%
With Findings



32%
Full Compliance

44%
With Findings

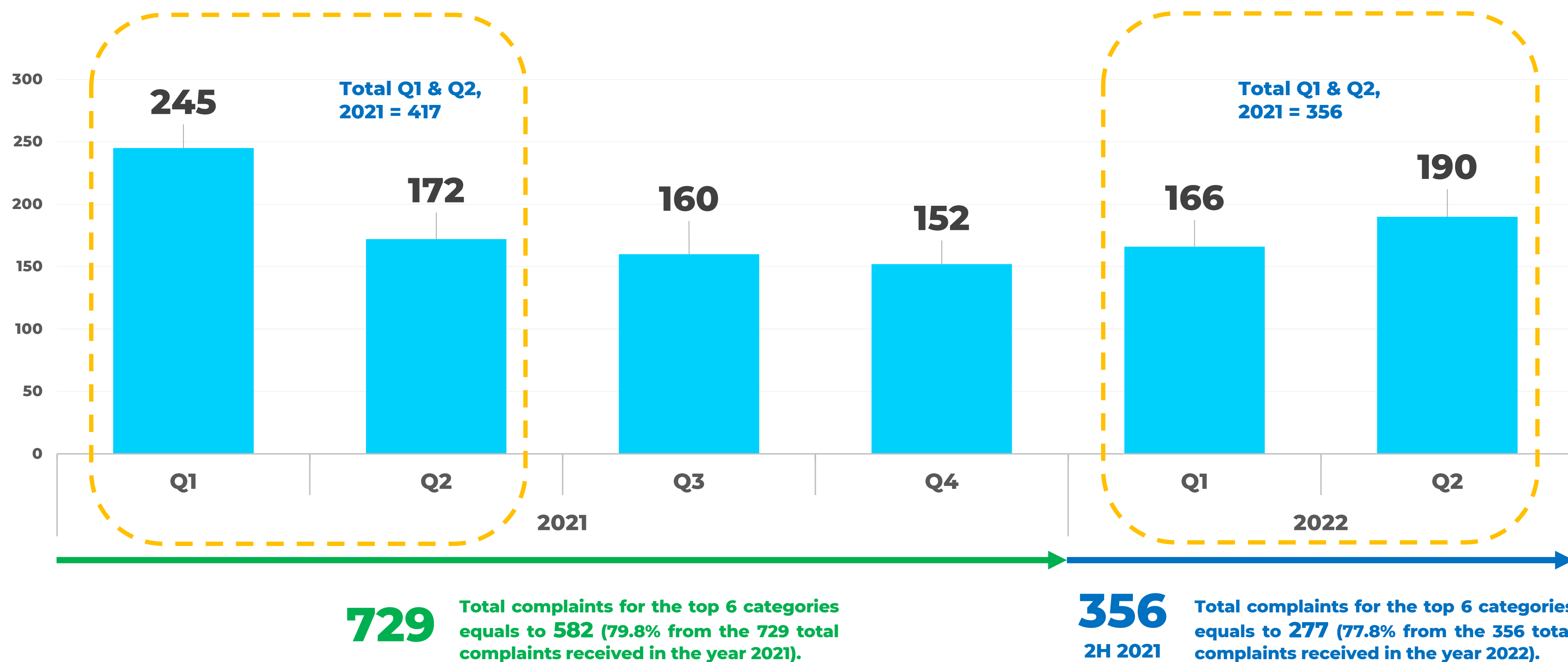


56%
Full Compliance

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

QUARTERLY COMPLAINTS SUBMISSION (2021 - Q2 2022)



SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

COMMONS TRENDS FROM QUARTERLY COMPLAINTS SUBMISSION

2021

45	Poor after sales services
42	Other operational issues such as misdirected correspondences, receipts, statements, tax certificates and misspelt names / addresses
41	Advertisement and promotion of UTF by UTC using unauthorised methods and / or unapproved promotional materials and advertisements
35	Unauthorised investment and withdrawal- Involving pre-signed forms
33	Performance issues such as lack-lustre performance of the UTF and lack of declaration of income distribution
386	Others *

2022 (up to June 2022)

26	Poor after sales services
22	Alleged misrepresentation and mis-selling (such as providing false information or statement and omitting information)
21	Other operational issues such as misdirected correspondences, receipts, statements, tax certificates and misspelt names / addresses
19	Late processing of or failure to process investment or withdrawal / payout (maturity)
17	Advertisement and promotion of UTF by UTC using unauthorised methods and / or unapproved promotional materials and advertisements
172	Others *

For the year 2021 and 2022 (up to Q2), the common areas of complaint are:

- Poor after sales service
- Other operational issues - such as misdirected correspondences, receipts, statements, tax certificates and misspelt names / addresses
- Advertisement and promotion of UTF by UTC using unauthorised methods and / or unapproved promotional materials and advertisements

**Others relate to enquiry, seeking bank's assistance / advice / feedback, non-satisfactory services / procedures / decisions / miscommunication or unable to access to system etc.*

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

OBSERVATIONS FROM SOCIAL MEDIA SURVEILLANCE WITH MYSTERY SHOPPING EXERCISE

69

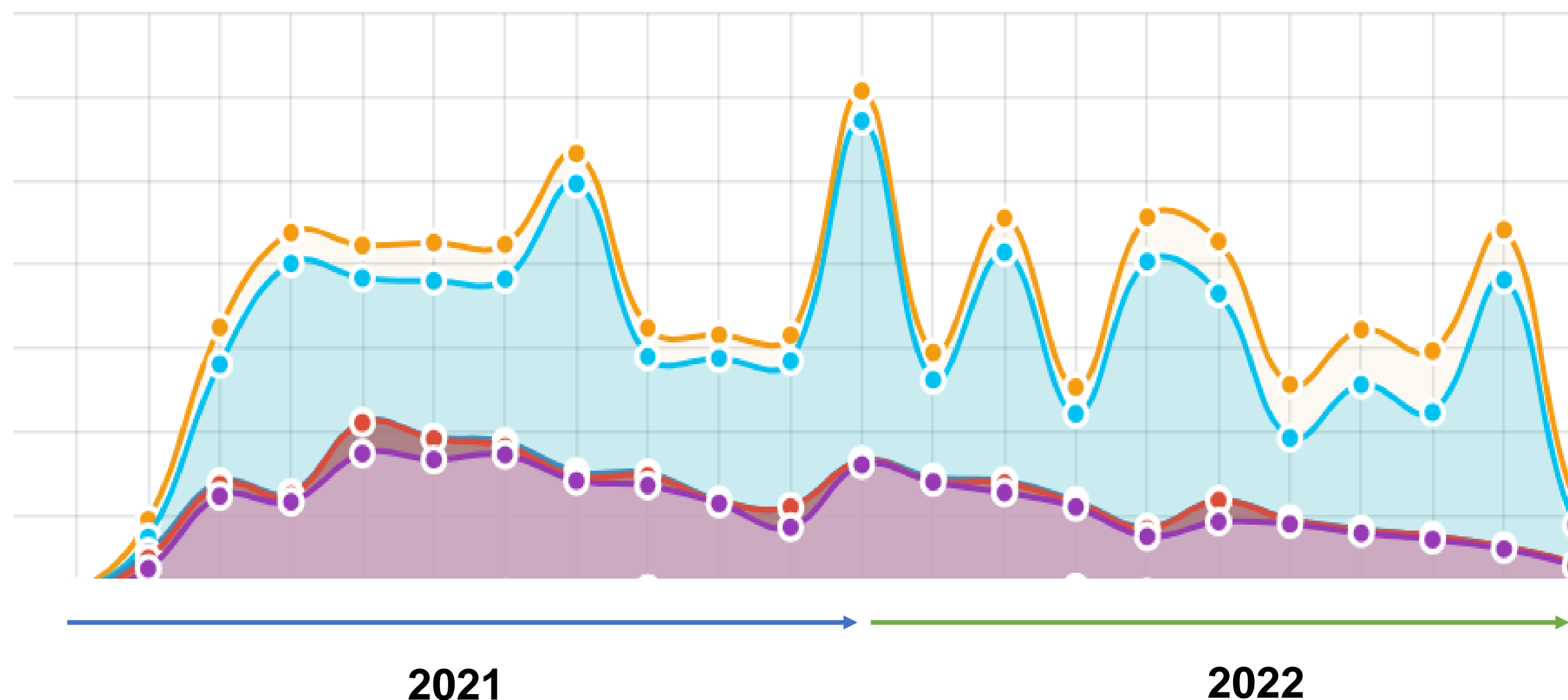
Observations

60

Consultants

11

Companies



- Instagram and Twitter platform consistently dominate the social media medium of choice.
- A declining trend of using social media tools for marketing schemes, post pandemic.
- More companies commenced to implement own monitoring of Consultant's marketing activities on social media.

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

OBSERVATIONS FROM SOCIAL MEDIA SURVEILLANCE WITH MYSTERY SHOPPING EXERCISE

Recurring Observations

1

Unauthorised use, or by inference adopt or display, the designation, title or qualification meant for licensed person.

2

Make false statement or disseminate false information concerning the Schemes, SC, FIMM, the Industry, other Distributor or Consultant.

Other Observations

Appoint or allow non-registered person to market or distribute Schemes.

Use FIMM's logo without FIMM's prior written consent.

Disclose an investor's personal and financial information to a third party.

Misrepresent or make false or exaggerated statements concerning the Schemes.

Provide forecast of future performance of any Scheme.

Facilitate pre-signed or pre-thumbprint forms from an investor.

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

FOCUS GROUP INTERVIEW (FGI)

FGI was introduced in 2021 with the aim of obtaining views and feedback on industry related matters by directly interacting with Consultants.

This will be an area of focus for 2023.

Feedbacks

- Level of support provided by principal
- Level of support provided by FIMM

Challenges

- Adaptability with technology
- Dealing with investors



Clarification

- Application of FIMM's Code of Ethics.
- Understanding differences between roles of Consultants and Financial Planners.

Assessment

- Level of compliance.

SUPERVISION DEPARTMENT

KEY OBSERVATIONS & RECURRING FINDINGS

KEY TAKEAWAYS FOR DISTRIBUTORS

Ensure proper records are maintained and reviewed.

Ensure timeliness and accuracy of submissions of ACR, PRA and Quarterly Complaints.

Remind and monitor Consultants activities on social media platforms (where relevant).

Remind Consultants to adhere to FIMM's Code of Ethics at all times.

SUPERVISION DEPARTMENT

WHAT'S NEW FOR 2023

AUTOMATION OF ANNUAL COMPLIANCE REVIEW (ACR) CHECKLISTS

A tool that could automatically send and track email notification sent between FIMM and individual Distributor on ACR matters.



A platform where the ACR questionnaires can be answered electronically by the Distributors and timing of responses logged in the system.



Benefits of AACR



Ability to capture and record information on follow-up procedures and its progress on remedial actions till completion.



A two-way communication platform between FIMM and the individual Distributor to send and receive response from ACR's queries.

SUPERVISION DEPARTMENT

WHAT'S NEW FOR 2023

AUTOMATION OF ACR CHECKLIST TIMELINE





LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

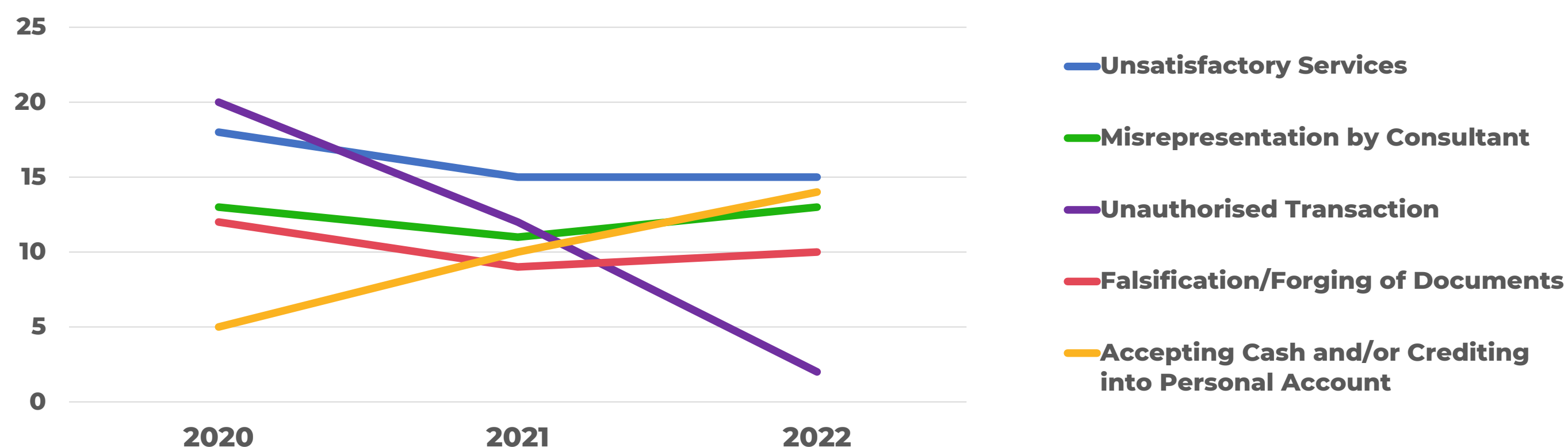
- **NATURE OF COMPLAINTS & TRENDS
JANUARY 2020 - OCTOBER 2022**
- **REFRESHER ON PROPOSED INVESTIGATION
CHECKLIST FOR DISTRIBUTORS**
- **CASE STUDIES**
- **KEY OBSERVATIONS & TAKEAWAYS**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

NATURE OF COMPLAINTS & TRENDS JANUARY 2020 - OCTOBER 2022

Trends of Top 5 Types of Complaints *January 2020 – October 2022*



Unsatisfactory
Services



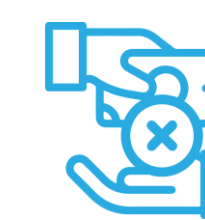
Misrepresentation by
Consultant



Unauthorised
Transaction



Falsification/Forging of
Documents



Accepting Cash and/or Crediting into
Personal Account

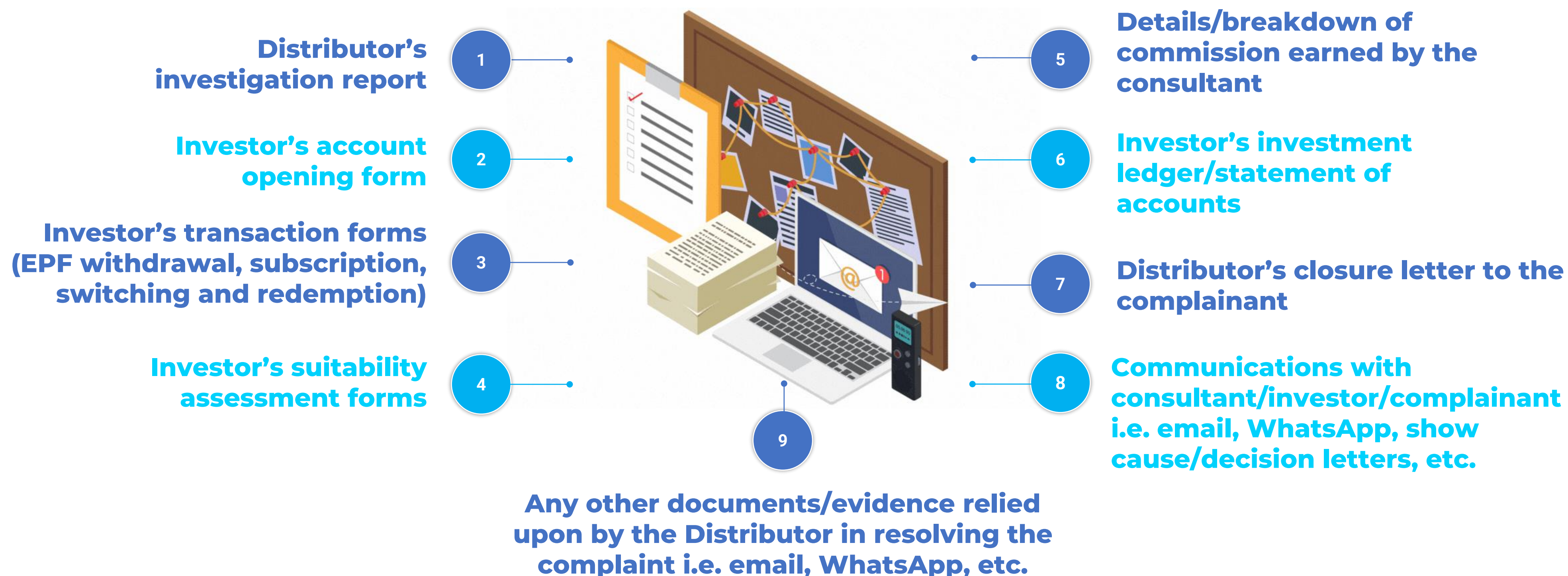
2020	18	13	20	12	5
2021	15	11	12	9	10
2022	15	13	2	10	14
Total	48	37	34	31	29

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

STANDARD DOCUMENT CHECKLIST FOR FIMM'S INVESTIGATIONS

FIMM's investigation includes review/verification of information & documents provided by Distributors.



LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY

#1

**THE DANGERS
OF ACCEPTING
PRE-SIGNED FORMS**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY #1 THE DANGERS OF ACCEPTING PRE-SIGNED FORMS

The Allegation, the Distributor's Investigation Findings, and FIMM's Observations		
Investor's Allegations	Unauthorised switching transactions	Alleged Person accepted pre-signed forms from the Investor
Distributor's Findings	<ul style="list-style-type: none"> Alleged Person claimed that the Investor had previously given her full control to manage his investments, including performing any switching transactions. Hence, the complaint is due to a misunderstanding between the parties. Investor claims that he instructed the Alleged Person to obtain his consent before performing any investment transaction. 	<ul style="list-style-type: none"> Alleged Person confessed to accepting a few extra pre-signed investment forms from the Investor. Investor acknowledged that he pre-signed several forms but insists that he did not sign any switching forms. Investor's signature in all investment forms tallied with his account opening form.
FIMM's Observations	<ul style="list-style-type: none"> Alleged Person claims that she had notified the Investor of her performance of 4 out of the 5 alleged unauthorised switching transactions via WhatsApp or phone call (no evidence). However, she eventually admitted to not receiving the Investor's consent on the last (5th) switching transaction. 	<ul style="list-style-type: none"> While there was admission from both parties regarding the pre-signed forms, the Investor insisted that he did not sign the relevant forms to affect the alleged unauthorised switching transactions. Upon reviewing the Investor's signatures in various investment transaction forms over the years, there appear to be significant discrepancies between the Investor's signatures in the investment transaction forms.



Distributor concluded that Alleged Person accepted pre-signed forms. However, because all the signatures in the forms were genuine, the switching transactions were authorised.



FIMM concluded that the Alleged Person had not only accepted pre-signed forms from the Investor, but also guilty of performing an unauthorised switching transaction.

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY

#2

**MORE THAN
MEETS THE EYE**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY #2 MORE THAN MEETS THE EYE

The Allegation, the Distributor's Investigation Findings, and FIMM's Observations		
Investor's Allegations	Unauthorised redemption transactions	Misuse of the Investor's signature
Distributor's Findings	<ul style="list-style-type: none"> Distributor noted only 7 redemption transactions made in the Investor's account. All redemption money was credited to the Investor's bank account and was later withdrawn by the Investor. Distributor concluded that Investor made a net profit of approximately RM12k from her investment. 	<ul style="list-style-type: none"> Investor's signature in all investment forms tallied with her account opening form. Investor appeared to be aware that she signed the relevant investment forms.
FIMM's Observations	<ul style="list-style-type: none"> According to the Investor, the Alleged Person would accompany the Investor to the bank to withdraw the redeemed money from her account, and thereafter re-invest such redeemed money into UTS. Hence, multiple re-investments were made shortly after the money had been redeemed. Most redemptions appeared to be redeemed at a loss, and FIMM noted that the net profit conclusion made by the Distributor was inaccurate. 	<ul style="list-style-type: none"> FIMM noted discrepancies between the Investor's signatures in the investment transaction forms. There was a WhatsApp communication between the Investor and the Alleged Person where the Alleged Person asked for sample of the Investor's signature and bank account number. The Investor insisted that she did not sign the investment forms.



Distributor concluded that Alleged Person did not commit any misconduct, based on these findings.

Based on these observations, FIMM directed the Distributor to provide further evidence, namely:



- Investor's transaction details.**
- Analysis of Investor's profit and loss.**
- Details on fees charged on each transaction.**
- Details on commission paid to Alleged Person.**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY #2 MORE THAN MEETS THE EYE

Further investigation findings:

1. Following FIMM's request, the Distributor provided Investor's **complete investment transaction details**, where it was discovered that there were 16 redemptions and 8 re-investments made from the Investor's account within a period of 19 months (**re-investments were shortly after redemptions**).
2. From the transaction details, an **analysis of profit / loss** was established. Upon taking into consideration the sales charges involved in each investment transaction, it was ascertained that the **Investor had actually incurred losses** of approximately RM50k.
3. Finally, the Alleged Person's **motive was established by reviewing the amount of commission** made from the various unauthorised transactions. In all, the Alleged Person was discovered to have received a commission of nearly RM30k from the Investor's account. Hence, it was clear that the Alleged Person **did not act in the best interest of the Investor**.

Based on the above, the Disciplinary Committee concluded that there was an element of churning in this case, which led FIMM to publicly reprimand and bar the Alleged Person from future registration.

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY

#3

**KEEPING THE HOUSE
IN ORDER**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY #3 KEEPING THE HOUSE IN ORDER

The Allegation and the Distributor's Actions	
Misconduct Detected	Acceptance of cash by two Consultants
Distributor's Actions	<ul style="list-style-type: none"> Distributor ensured that the investment application forms were not processed, and that the money was accordingly refunded to the relevant potential investors. Distributor issued Warning Letters to Consultant A and Consultant B. Distributor instructed Consultant A and Consultant B to attend training on FIMM's Code of Ethics. Distributor issued an internal memo to all its Consultants to adhere to the relevant rules, guidelines and policies

Two Consultants – Consultant A and Consultant B – attempted to deposit cash into the Distributor's bank account for purposes of UTS investment.



Before the transaction could occur, the Distributor noted that there was a mismatch between the names set out in the payment slips from that of the investment application forms. Such mismatch is indicative of the fact that the Consultants had accepted cash from their respective clients and were attempting to deposit that cash to the Distributor's account on their clients' behalf for UTS investment.



This is a good example of a proactive Distributor. The misconduct was identified by the Distributor due to its internal control measures that were able to detect acceptance of cash by Consultants.

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY

#4

**WHEN IN DOUBT,
FOLLOW THE MONEY**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CASE STUDY #4 WHEN IN DOUBT, FOLLOW THE MONEY

The Allegation and the Distributor's Investigation Findings	
Investor's Allegation	Investment statements did not reflect the Investor's latest top-up transaction
Distributor's Findings	<ul style="list-style-type: none"> The first thing the Distributor did was requested a copy of the banker's cheque from the Investor. From there, the Distributor followed the money trail and discovered that the same cheque had been utilised by the Investor's servicing agent (Alleged Person) to open a UTS account under his name. The Distributor obtained copies of the Alleged Person's account opening form and account statements, and noted that the Alleged Person had eventually redeemed the money in his UTS account shortly after account opening. Effectively, the Alleged Person had succeeded in misappropriating money from the Investor without accepting any cash from him.



The Investor's allegation was a simple one – according to him, he had issued a banker's cheque to top up his existing UTS investment. According to the bank, his cheque had been disbursed. However, when the Investor checked his investment statements for the relevant period, he discovered that his transaction was not reflected.

...This is an example of a less straightforward case. Hence, some questions to ask when looking into such complaints include:

- What happened to the money?
- Was the investor assisted by anyone when he issued the cheque? (i.e. who was his servicing agent?)



Consultants are finding more innovative ways to commit misconducts such as misappropriation of money. However, we have used this case as an example of a "good" case study because it shows the Distributor's thoroughness of investigation, and their ability to trace the loss back to a single Alleged Person. It also helps that the Distributor was able to back their findings up with all the relevant documentary evidence.

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

KEY OBSERVATIONS & TAKEAWAYS FROM THE CASE STUDIES

1. It is not sufficient to make a conclusion based solely on entry and exit particulars of the relevant investment activities. Instead, the investigation should consider:
 - i. Motive, i.e. is the consultant acting in the best interest of the investor by performing the relevant transactions, or is he / she acting in his/her own interest by chasing commissions or other benefits?
 - ii. All relevant facts, including every investment transaction performed, in order to obtain a holistic understanding of the case.
2. Consider the background of the investor to ascertain their investment-savviness, i.e.:
 - i. In the first case study, the Investor was a banker in his 40s, who most likely would not have given his consultant full control over his investments without some level of monitoring or control;
 - ii. In the second case study, the Investor was a 52-year-old housewife who could not read or understand English. Hence, she was the perfect victim for the Alleged Person to prey on.

As best practices:

- i. Consider strengthening the signature verification process at the point of approving any investment transactions (be it redemption, switching or top-up). While the misconduct of forgery could not be established in case 1 and case 2 due to lack of evidence, the unauthorised transactions could have been mitigated if such control measures had been taken.
- ii. Consider implementing additional control such as alert messages to investors for each transaction so that investors are alerted to the matter.
- iii. Enable investors to identify value and cost of investment in a single document e.g. Statement of Account to identify profit/loss.

Other areas of concern:

- i. Referral/proxy arrangement between consultants
- ii. More than 1 consultant dealing with same investor for same investment account
- iii. Pre-signing of forms & cash acceptance is the root cause of many complaints – **sterner action will be taken by FIMM**
- iv. Consultants not attending FIMM's disciplinary proceedings – **severe action may be taken by FIMM**

LEGAL & REGULATORY AFFAIRS

COMPLAINT TRENDS & ENFORCEMENT

CONCLUSION



The complaint trends and investigation pitfalls shows that more needs to be done to protect our investors' and maintain their confidence in the UTS and PRS industry.

We seek continuous and effective engagement and cooperation between FIMM and the industry to provide timely remedy and resolution for our Investors.

PROFESSIONAL DEVELOPMENT SERVICES

FIMM EXAMINATION

- **STATISTICS**
- **MISCONDUCTS**
- **BEST PRACTICES**

PROFESSIONAL DEVELOPMENT SERVICES

FIMM EXAMINATION

STATISTICS

EXAM TYPE	REGISTERED CANDIDATES	PRESENT/SAT FOR THE EXAM	PASSED	PASSING RATE
CUTE	11,433	10,433	6,270	60.1%
CPRE	1,948	1,764	1,305	74.0%
TOTAL	13,381	12,197	7,575	67.0%

Data as at 31 October 2022

PROFESSIONAL DEVELOPMENT SERVICES

FIMM EXAMINATION MISCONDUCTS



Referring to Notes



**Using
Remote Application
(i.e. Anydesk or Helpdesk)**



**Referring to
Another Device**








**Repeatedly Opening
Other Pages or Apps**



**Working or
Walking Around**

PROFESSIONAL DEVELOPMENT SERVICES

FIMM EXAMINATION MISCONDUCTS

Types of Misconduct	 <p>Referring to Notes</p>	 <p>Using Remote Application (i.e. Anydesk or Helpdesk)</p>	 <p>Referring to Another Device</p>	 <p>Repeatedly Opening Other Pages or Apps</p>	 <p>Working or Walking Around</p>
No. of Misconducts	1	14	1	1	1

PROFESSIONAL DEVELOPMENT SERVICES

FIMM EXAMINATION

BEST PRACTICES



1. **Use normal or scientific calculator.**
2. **Standby charger / cable for electronic devices.**
3. **Have a clean table free of books / notes.**
4. **Sit in a quiet and comfortable place.**
5. **Find a place with stable internet connection.**
6. **Standby with 3 pieces of plain paper & pen or pencil.**
7. **Standby with examination link and examination number.**
8. **Install the Microsoft Teams application on handphone at least 1 day before the examination date.**
9. **Test the Microsoft Teams and examination link 1 day before the examination starts.**
10. **Switch on camera at all times.**
11. **Be alert with the Microsoft Teams meeting. If the line cut-off during the examination, please quickly rejoin.**
12. **If the candidate is using hearing aid, please inform the invigilator at least 1 day before the examination date by providing sufficient document as proof.**

PROFESSIONAL DEVELOPMENT SERVICES

FIMM EXAMINATION

BEST PRACTICES



- 1. Write down or copy examination questions.**
- 2. Refer to any notes / reading material.**
- 3. Smoke or vape.**
- 4. Open any unrelated browser on laptop / tablet / PC / mobile phone.**
- 5. Use of financial / programmable calculator.**
- 6. Leave the examination room during the examination.**
- 7. Leaving the examination room during the first 15 minutes of the examination even though you have completed the examination.**
- 8. No toilet break is allowed.**
- 9. Use handphone to take the examination.**
- 10. Use earphone / headphone.**



THANK YOU



AMLCTF/PF - Theory to Practical: Customer Due Diligence

FIMM Industry Briefing
22 November 2022

AU LEE MEE

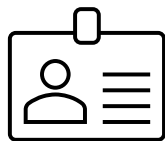
Intermediary & Fund Supervision
Securities Commission Malaysia

NOTICE

- The views expressed here are solely those of the speaker in her private capacity and do not in any way represent the views of the Securities Commission Malaysia (SC).
- The cases mentioned in this presentation have been prepared, cited or described on the basis for discussion rather than to illustrate either effective or ineffective handling of a business situation.
- No part of this presentation may be reproduced, stored in a retrieval system or transmitted in any form or by any means without the permission of the SC.

- Main challenge is implementation of the Know Your Customer (KYC) requirements
- But adherence to standards, appropriately applied, can help to create confidence and sustainability in the system
- Emphasis is on the importance of a consultant's roles in helping his/her principal with this AMLCTF/PF obligation

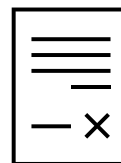
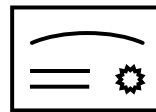
- Identification of a customer is the process whereby a licensed / registered person obtains from the customer all relevant information to identify who the customer is.
- Information on purpose and nature of the financial relationship or transactions is useful in determining the customer's financial capability / capacity at the commencement of said relationship and/or when entering into a transaction



Conduct CDD and obtain evidence of identity and legal existence



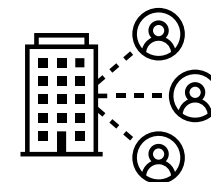
Anonymous account or account in fictitious name



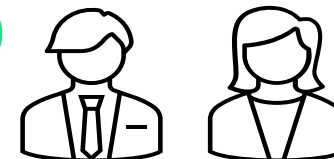
Identify and verify customer's identity



Obtain information on purpose of account opening and intended nature of business relationship



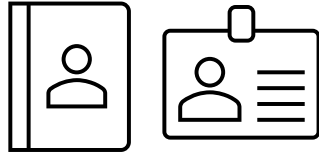
Identify and verify identity of beneficial owner



Verify person acting on behalf of customer is authorised; Identify and verify said person

Individual customer / beneficial owner (BO) – minimum information

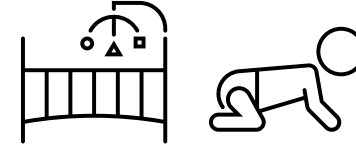
Confidential



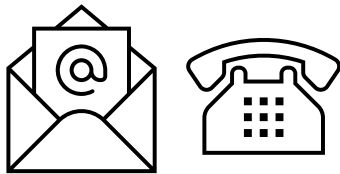
Full name; and
NRIC number or
Passport number



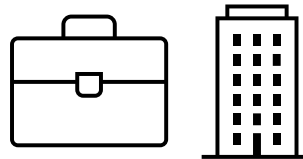
Residential and
mailing address



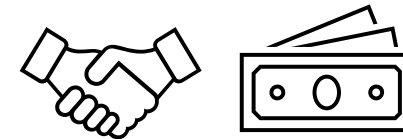
Date of birth; and
nationality



Contact number; and
email address



Occupation type; and
name of employer



Purpose of
transaction

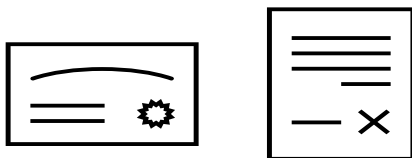


If the above information is **not sufficient**, company must obtain further relevant information from the individual customer or BO

Identification and verification of legal persons and arrangements (1/2)

Confidential

Customers (the company/trust)



Name, legal form and proof of existence – certified constituent documents



Address of registered office and principal place of business

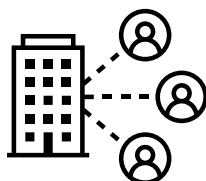


Directors' resolution; and names of relevant Senior Management

Beneficial Owners (legal person)



Certified Form 24 and Form 49 by SSM or equivalent documents for a partnership, society, foreign body corporate

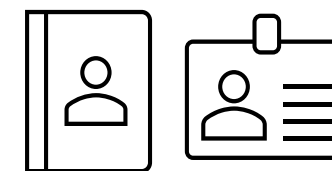


Identification documents of shareholders with equity >25%, directors, partners and office bearers



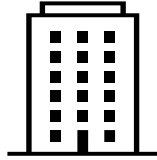
Letter of authority, directors' resolution and relevant documents for identification

Beneficial Owners (legal arrangement)



Identification documents of settlor, trustee or beneficiary or class of beneficiaries controlling the trust

Identification and verification of legal persons and arrangements (2/2) Confidential



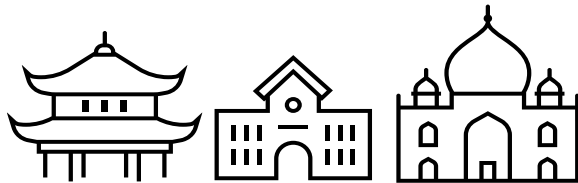
Public-listed companies listed on Bursa Malaysia or its majority-owned subsidiaries



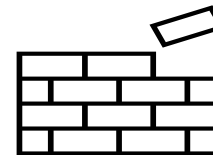
Persons licensed or registered under *CMSA*



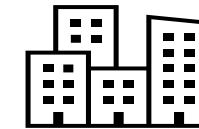
Authorised or registered persons under *Financial Service Act 2013* or *Islamic Financial Service Act 2013*



Foreign public-listed companies on exchanges recognised by Bursa Malaysia; and not listed in jurisdiction identified in FATF Public Statements



Prescribed institutions under *Development Financial Institutions Act 2002*



Entities licensed under *Labuan Financial Services and Securities Act 2010* or *Labuan Islamic Financial Services and Securities Act 2010*

- Screen against the United Nations Sanctions Council Resolutions (UNSCR) and domestic i.e. Ministry of Home Affairs (MOHA) lists on Targeted Financial Sanctions for Terrorism / Proliferation
- Applicable to both existing and potential / new customers
- Screen the entire customer database within a reasonable time when new names are listed by UNSCR and/or MOHA



- Freeze funds, properties or accounts without delay
- May continue receiving dividends, interests, or other benefits, but such benefits shall still remain frozen
- No outgoing payment should be made out from the frozen funds, properties or accounts without the approval of Minister of Home Affairs
- Report to the SC (*notification*), FIED (*STR*) and PDRM (*match to MOHA listings*), where applicable



Employ technology-based or system-based screening

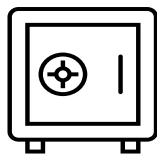


Conduct irregular screening of the entire customer database

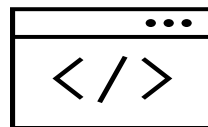
Non-face-to-face onboarding

Confidential

Demonstrate on continuing basis that appropriate measures for identification and verification of a customer's identity, when establishing non-face-to-face business relationship, **are as effective** as that for face-to-face customer; and implement monitoring and reporting mechanism **to identify potential ML/TF activities**.



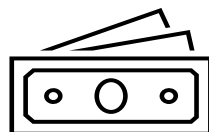
Request additional identification documents
e.g. bank statements,
utility bills



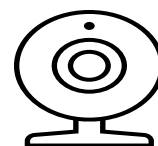
Substantiate information
with independent source e.g.
database maintained by
relevant authorities



Contact customer via
digital communication
channel



Request customer to make a
nominal payment from his/her
own account with a licensed
bank or Islamic bank



Use new technology solutions
e.g. biometric technologies
linked incontrovertibly to
customer



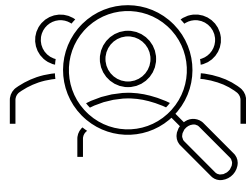
If company is **unable to identify and verify the customer's identity** by adopting the measures above, company **must initiate face-to-face business relationship**.

Conducting Customer Due Diligence (CDD)

Confidential

Your company must adopt a risk-based approach in determining whether to apply standard or enhanced CDD measures based on the customer's background, transaction types or specific circumstances.

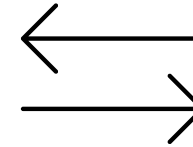
When conducting CDD, your company may take into account the following risk factors for determining circumstances of higher risk:



Customer risk factors



Country or geographic
risk factors



Transaction or
distribution channel
risk factors

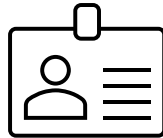
Risk parameters in relation to respective risk factor above are listed in the SC's AMLCTF Guidelines

Your company must refer to **credible sources** (e.g. reports published by international organisations such as the FATF, Asia Pacific Group on Money Laundering, United Nations, World Bank and International Monetary Fund) in identifying country and geographic risk factors.

Enhanced CDD measures

Confidential

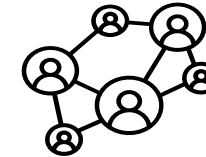
Where the ML/TF risks are assessed as **higher risk**, your company must undertake enhanced CDD measures on the customer and, where applicable, the beneficial owner. These measures include:



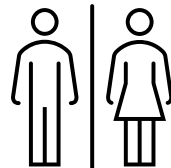
Obtain additional information on customer and BO



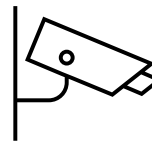
Enquire on source of wealth and funds



Obtain additional information on intended level and nature of business relationship



Regular update on identification data of customer and BO



Enhanced **ongoing monitoring**

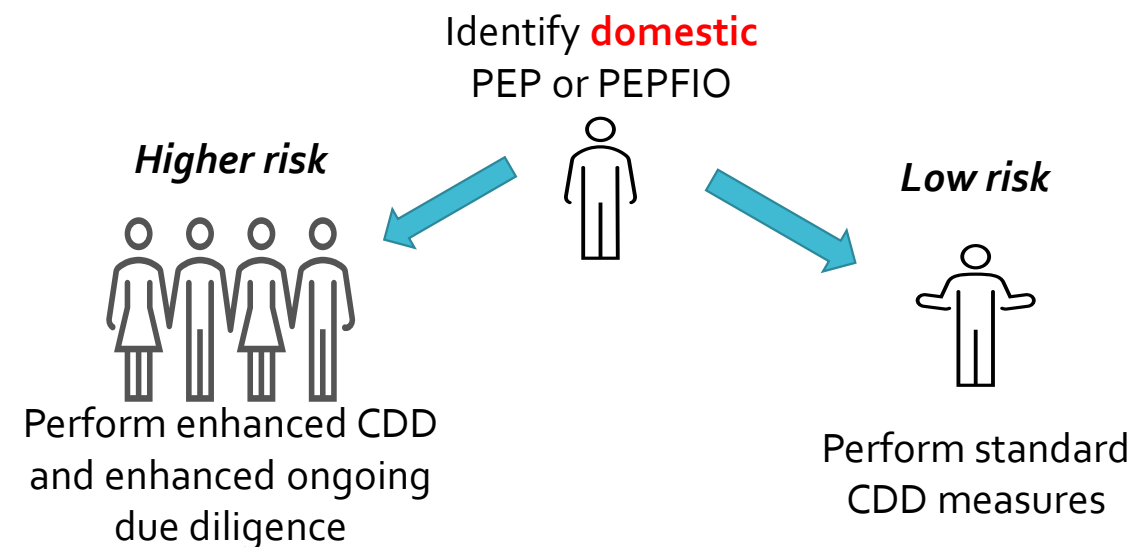
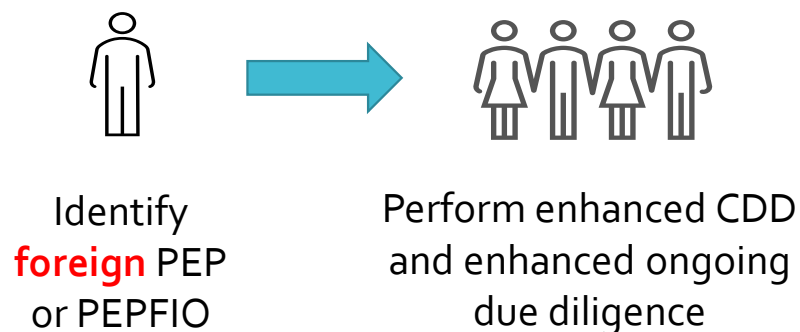


Obtain approval from **senior management** before establishing business relationship



Politically exposed persons (PEP) & Higher-risk countries

Confidential



Conduct enhanced CDD for any business relationship and transaction with any person from countries identified by the FATF as issued under the "FATF Public Statement"¹ or the Government of Malaysia² as having ongoing or substantial ML/TF risks.



Iran



North Korea

Conduct enhanced CDD for business relationship and transaction with any person from countries identified by FATF as issued under the "FATF Public Statement"¹ or the Government of Malaysia² as having strategic AML/CFT deficiencies and have not made sufficient progress in addressing the deficiencies.



Myanmar

Ongoing due diligence

Conduct ongoing due diligence and scrutiny on the business relationship with its customers **throughout the course of the business** relationship.



Continuous monitor and detect pattern of transaction



Ensure data and information collected are up-to-date

The frequency in must be commensurate with the level of ML/TF risks posed by the customer based on the risk profiles and nature of transactions.

Enhance the control measures, increase the number of monitoring of the relevant customers' accounts, and timing of controls applied.

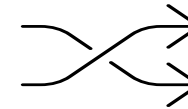
Monitoring of accounts

Confidential

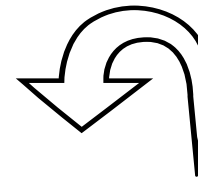
- Flagging accounts with suspicious transactions
- Reclassifying a customer as higher risk
- Consider lodging a suspicious transaction report (STR) with the FIED



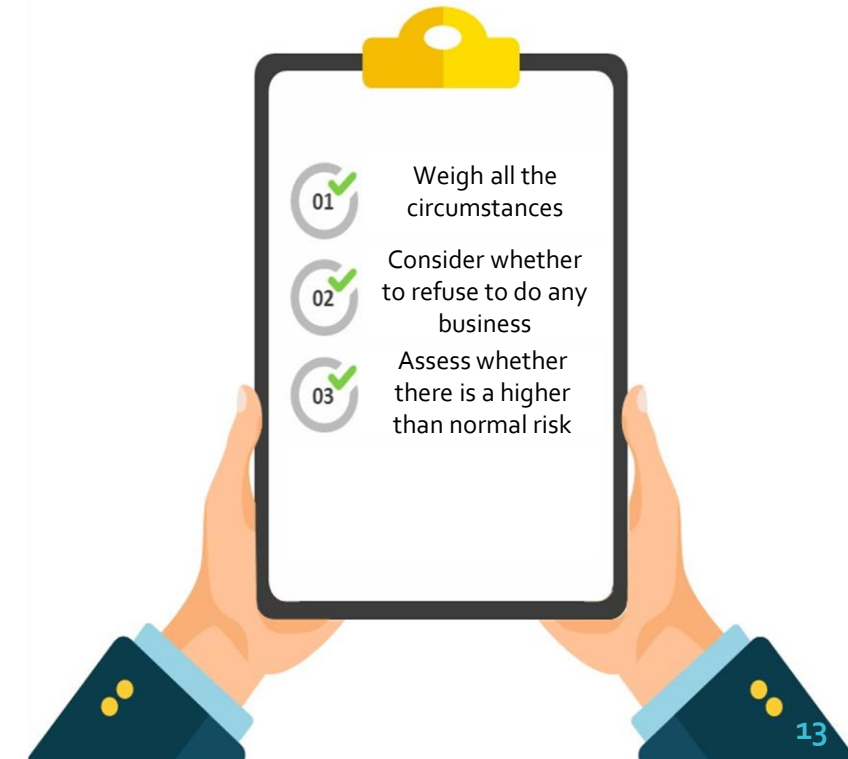
Inconsistent pattern of account activity / does not commensurate with customers' background



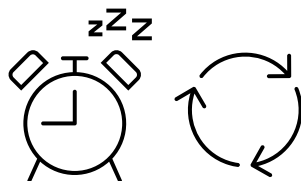
Unusual transaction pattern



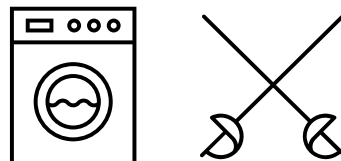
Material change in account



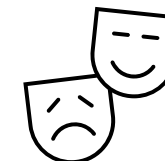
When to undertake renewed CDD?



Account has been dormant;
and when customer seek to
reactivate it



Suspicion of ML/TF risks



Doubt on adequacy of ID
obtained previously

If you fail to satisfactorily complete CDD, what do you do?



Must not commence any
business relationships or
transaction with the customer



Terminate any business
relationships or transaction
with the customer



Consider lodging STR
to FIED

Thank You!

Question & Answer Session

