

Consumer rules decried as anti-consumer

By GRANT CAMERON

Federal Finance Minister Jim Flaherty is proposing rules for customer complaints against banks as a step forward for the industry, but a consumer advocacy group maintains they'll only reduce consistency in decision-making and lead to more head scratching among consumers.

The Foundation for Advancement of Investor Rights (FAIR) in Canada warns that the model planned by Ottawa is flawed because consumers would end up having to choose a private-sector dispute resolution service provider selected by the bank, rather than have cases heard by the Ombudsman for Banking Services and Investments (OBSI), an independent organization.

FAIR executive director Ermanno Pascutto is worried that opening the door to more competition among approved dispute resolution providers will erode consumers' rights because the suppliers will give banks preferential treatment in hopes they'll get repeat business.

"Under the new system, the commercial dispute resolution providers will be working for the bank. They'll bid for the busi-



ness, get hired by the bank and they'll get paid by the bank. There will be less interest in consumer rights and more interest in the banks' rights."

Because multiple, disparate, for-profit service providers will be used, he also believes that decisions will be incongruent,

leaving consumers mystified by the resolution process.

"Everyone loves competition and competition creates choice, but the problem is that in this case it's only choice for the banks," he added.

"They get to choose among competing service providers but

the consumers have no choice whatsoever. Consumers must use whatever service the bank has selected. The choice is only that of the bank. We think it's a problem."

Pascutto is also concerned that rights of consumers will be eroded by the fact that the dispute resolution providers are not

and had been responsible for sorting out consumer complaints against banks, but it came under criticism for being too costly. Membership in the organization was always voluntary. Toronto-Dominion and the Royal Bank of Canada have abandoned it in favour of their own processes.

FAIR wrote a letter to the finance minister, urging that OBSI be made the sole mediator for the financial industry and that its decisions be made binding, but Flaherty instead opted for a framework that will allow banks to use services of other dispute resolution providers.

Banks can still choose to use the services of OBSI, but they don't have to.

The federal government decided to come up with the framework to provide more certainty for consumers. Although banks were required to have consumer complaints procedures in place and to be members of external complaints bodies, there were no regulatory standards established for the external complaints bodies, and no formal compliance monitoring by the Financial Consumer Agency of Canada (FCAC). Flaherty maintains the new

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Ermanno Pascutto, FAIR

really ombudsman and will not help consumers figure out whether they have a legitimate complaint, nor help them articulate their cases.

The proposed rules state that dispute resolution providers must be impartial and independent of the parties to the complaint, but there is nothing that stipulates they must help consumers.

"The majority of clients of OBSI are senior citizens, and a large percentage of them are immigrants who don't speak English very well," Pascutto said. "The people who end up with OBSI are not sophisticated people. OBSI acts like an ombudsman. It investigates and helps them.

"It levels the playing field because the banks have teams of lawyers and compliance officers and the consumer often has no one."

Under the new system, banks will be compelled to give consumers the option of taking unresolved complaints to an independent organization that has been approved by the government. However, the banks will be allowed to choose which organization they want to use.

OBSI was formed in 1996

rules will give more power to consumers looking to resolve a dispute with their bank by creating a more independent consumer complaint system.

Under the proposed regulations, banks would be required to inform customers of the name and contact information of their external complaints body so that consumers clearly know whom to contact when a dispute arises. Also, for the first time ever, the FCAC will review all the external complaints bodies prior to their consideration for approval.

The Canadian Bankers Association (CBA), which works on behalf of 53 domestic banks and foreign bank branches and subsidiaries operating in Canada, supports the proposed rules.

"We think it is very important that all bank customers have access to a strong, independent, free and effective dispute resolution service, regardless of the provider," said Rachel Swiednicki, manager of media relations at the CBA.

"These new regulations will provide clarity and consistent standards so that consumers

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EXHIBITORS






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belonged to Weinberg and Charlie Spiring, their respective CEOs — but he had a “significant” ownership stake at both firms and was one of many to profit handsomely from their sale.

By serving his clients at KPMG, Kapoor said he learned the habits of successful people, including marketing and communications, how to build a successful organizational structure and how to assess the competitive landscape.

“It’s fertile ground for being educated on a real-time basis. That training gives you very specific skills that you can laser-focus on people’s issues and make a high impact,” he said.

Kapoor said his CA training has enabled him to speak the language of virtually every entrepreneur around.

“It becomes so intuitive. I can walk into any business and after reviewing the financial statements and talking to people, I can identify the key drivers of success and challenges and identify the solutions for achieving success,” he said.

Kapoor will get no argument from Jozef Hubburmin. Unhappy with his career path as a middle manager at one of the major banks in the early 1990s, he decided the road to workplace satisfaction would start with signing up to take his CMA.

“I wanted to fast track into senior management and the best thing I thought I could do is get my CMA. I thought it would open doors and give me more choice.”

His goal was to work for a high-growth company where he could put his training to good use.

Two decades later, he’s the CFO of Fresh Direct Produce, a Vancouver-based importer and distributor of fruits and vegetables that has 130 employees. His role centres on the company’s strategic focus

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Kish Kapoor, certified management accountant

and profitability analysis.

Examining business cases, evaluating options, making well-researched decisions and recommendations, formulating strategy as well as margin analysis, product and customer identification and vision ... they are all “bread and butter CMA,” Hubburmin said.

Those much-sought-after three letters on his business card gave him immediate street cred, too.

“People tend to say: ‘This guy also understands areas other than just finance and accounting.’ It seems you can move around a little bit more. At my company, I also manage IT, HR, administration and marketing in addition to finance and accounting,” he said.

The networking that CMAs are encouraged to do also pays dividends in the business world, Hubburmin said. “You can’t know everything. If you’re out there networking, you have somebody to call to find out about things. You’re finding more people offering services so you can get more than one quote in. The more people you know, the more access to knowledge you have and the more ability you have to get quotes for the services you need.”

It’s a fallacy that accountants are trained purely to look at the numbers and do tax returns, according to Michael Benarroch, dean of the I.H. Asper School of Business at the University of Manitoba.

“The profession has become so much more than that. Accountants’ training includes management

training, too. Many CEOs, CFOs and COOs have an accounting background,” he said.

“When you’re examining somebody’s books or finances and you think something could be done to benefit their bottom line, you have to look at more than their taxes or the way that they’re financing their activities. A lot of that has to do with how they manage their organization.”

The public perception of accountants may be simply number crunchers but many of them are complementing their accounting training with an MBA or finance courses, Benarroch said.

“The accounting profession itself certainly has brought more management into their studies, including executive programs. CMAs, for example, have an executive program which is focused much more on the management end than on the accounting end.”

Kapoor and Hubburmin aren’t the only executives with accounting backgrounds across Canada. Others include Bill Linton, executive vice-president and CFO of Rogers Communications, Leo Ledohowski, CEO of the Canad Inns hotel chain and Aaron Regent, CEO at Barrick Gold.

Another is Steve Donald, who followed a similar career path to Kapoor. The CEO of Assante started out with Clarkson Gordon Services, a precursor to Ernst & Young, in 1987, where he was the manager of the financial services group in the audit practice.

He stayed there for nine years before leaving to join one of his clients, SHL Systemhouse, a computer outsourcing and consulting business, as controller.

A couple of years later, he joined Synergy Asset Management as a startup and handled CFO duties until CI Financial bought it. He was named CFO of sister company Assante and was appointed CEO three years ago.

He had long been interested in helping run an organization, but he enjoyed his time as an accountant so much that he stayed nine years, which he says was a “lot longer” than he had originally anticipated.

“The accounting industry allows you to get a variety of different industry experiences so you can identify areas that interest you. Within those areas, it gives you exposure to a number of different companies, management teams and management styles,” Donald said.

“As I stayed with the firm, I got involved in more senior-level meetings, audit committees and board meetings. It provided me with a broader perspective on how business decisions were made. It was that exposure that made it easier to transition into a managerial role.”

When he first decided to go into accounting, Donald said he couldn’t help but notice that many of the senior people at a good number of companies with which he came in contact were accountants in their previous lives.

“Having a broad perspective on

the business coupled with financial acumen I think is a powerful combination,” he said.

With each passing year as an accountant, Donald developed an increasingly solid foundation of decision-making abilities and logical and critical thinking skills. He doesn’t think an accounting background is necessary for every senior executive role, however.

“The best team is people with different and complimentary skill sets. I’m not sure a group of accountants would make the best management team,” he said with a laugh.

So, where are the opportunities to create value today? Kapoor said Canada’s mid-range corporate market is the sweet spot, as many entrepreneurs are looking for succession planning over the next three to five years. He is in the early stages of putting together a team of professionals to create “liquidity events” for entrepreneurs looking to cash in.

“I want to serve businesses that can create a liquidity event in the tens of millions of dollars. I envision having multiple clients that I would serve and provide advice to and prepare the right event for them,” he said.

Kapoor isn’t limiting the scope of his thinking to private companies. There are many public companies that are looking to do something different in terms of transforming their business, he said.

“If the right opportunity came along, I may go work with one of them. I’ve been so good at creating wealth by flying a Cessna, I would love to fly a 747.”

Complaints rules seen favouring banks

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know that they are receiving independent, quality dispute resolution services, regardless of the provider that their bank uses.”

Swiednicki said the CBA is currently reviewing the draft regulations with its members and will make its views known to the government as part of the consultation process, “but we aren’t in a position to say anything more at this time.”

She said more than four billion transactions flow through Canada’s largest banks each year, or nearly 11 million a day.

“The banks have a very good track record of serving their clients well and have relatively few cases going to an independent ombudsman. But disputes do

happen.”

In 2011, there were 471 complaints for the entire banking sector in Canada that were taken in for resolution by external complaints bodies.

Officials at OBSI are disappointed in the new rules and maintain consumers will be left out in the cold because banks can choose their own umpires in resolving disputes.

Laura Watts, chair of the organization’s consumer and investor advisory council, said in a statement that the government’s decision leaves a significant gap around banking consumer protection.

“Rather than using the framework of a not-for-profit, public interest ombudsman, who traditionally balances power and supports substantive access to jus-



PASCUTTO

tice for individual citizens, the proposed regime appears to embrace a narrower, private com-

pany, fee-for-service, alternative dispute resolution model instead, with the banks and not the consumer as clients.”

Tyler Fleming, director, stakeholder relations and communications at OBSI, said the organization is moving forward on the premise that many banks will continue to use its services.

He said OBSI is world-class and meets all the regulatory criteria for being a dispute resolution service provider for banks and is proceeding on that basis.

“We have a good relationship with our banks that remain with us. We have dozens of banks with us, big and small, and we’ll continue to work with them as long as they want to work with us, and we don’t have any sense that they don’t want to work with us. In fact, it’s quite the opposite.”

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