

January 3, 2024

Financial Consumer Agency of Canada (FCAC)
Supervision and Enforcement Branch
427 Laurier Avenue West, 5th Floor
Ottawa, ON K1R 1B9
compliance@fcac.gc.ca

Re: Consultation on a Proposed Guideline on Complaint-Handling Procedures for Trust and Loan Companies and Insurance Companies (the Guideline)

FAIR Canada is pleased to provide comments in response to the above-referenced Consultation.

FAIR Canada is a national, independent, non-profit organization dedicated to being a catalyst for the advancement of the rights of investors and financial consumers in Canada. We advance our mission through outreach and education, public policy submissions to governments and regulators, and proactive identification of emerging issues. As part of our commitment to be a trusted, independent voice on issues that affect retail investors, we conduct research to hear directly from investors about their experiences and concerns. FAIR Canada has a reputation for independence, thoughtful public policy commentary, and repeatedly advancing the interests of retail investors and financial consumers.¹

General Comments

For many years, FAIR Canada has been a steadfast advocate for improved complaint handling for investors and financial consumers. An effective, easy-to-navigate complaint resolution system is a cornerstone of a strong consumer protection framework and an essential pillar of a well-functioning financial services industry. Knowing their complaints will be addressed in a timely and appropriate manner can bolster consumer confidence and trust in the financial services sector. Effective complaint handling also promotes a level playing field, minimizes the risk of ongoing harm, fosters fair treatment and outcomes for the parties, and provides insights for rectifying operational and systemic issues.

A Harmonized Approach Better Serves Canadians

We commend the FCAC for seeking to harmonize the internal complaint handling procedures among federally regulated financial institutions, and fully support the proposed Guideline.

¹ Visit www.faircanada.ca for more information.

Consistent treatment of complaints, regardless of the financial institution involved, will help reduce consumer confusion, and promote fairness and consumer confidence in the financial system. Ultimately, the Guideline should contribute to a more positive experience for complainants who often feel vulnerable and overwhelmed by having to navigate different processes.

Harmonized internal complaint handling is also important because many consumers cannot easily distinguish or identify the type of financial institution they are dealing with. Financial institutions are increasingly becoming “one-stop shops” that offer a range of products and services. Additionally, in a world where many consumers access financial services and transact digitally, it is makes it difficult to identify the type of financial institution they are dealing with. This experience reinforces consumer expectations of uniform treatment, while masking the reality of a highly fragmented regulatory regime.

From the consumer’s perspective, they are buying a financial product from a financial institution and assume there would be a consistent approach regardless of whether that institution is legally characterized as a bank, a trust and loan company, or an insurance company. Consistent complaint handling across different federally regulated financial institutions should ease the burden on consumers and fosters more positive consumer experiences when they do have a complaint.

Use of the Term “Ombudsman”

We note that the Guideline is silent as to whether trust and loan companies, and insurance companies should also stop using misleading terms such as “ombudsman.” The use of misleading terms was specifically prohibited for banks when the financial consumer protection framework took effect in June 2022.²

A corresponding prohibition is absent from the legislative and regulatory framework for insurance companies and trust and loan companies. We encourage the FCAC to consider whether the use of misleading terms such as “ombudsman” is an issue in these sectors. If so, we recommend harmonizing with the approach for banks and imposing a similar prohibition.

External Complaint Handling

The proposed Guideline is a positive step forward that will promote consistent internal complaint handling for federal financial institutions. However, external complaint handling in the federal financial sector remains fragmented among various ombudservices.

FAIR Canada was pleased to see the Minister of Finance take a significant step to reduce this fragmentation and protect the interests of banking customers: designating OBSI as the sole external complaints body (ECB) for banking complaints. Reducing complexity in the

² [Bank Act](#), s. 627.43(2).

complaint resolution framework by having a single banking ECB also levels the playing field for consumers, making it easier to pursue a complaint.

We encourage the FCAC to consider whether there are further opportunities to harmonize the external complaint handling system to better protect Canadian consumers.

Thank you for considering our comments on this important issue. We welcome any further opportunities to advance efforts that improve outcomes for consumers. We intend to post our submission on the FAIR Canada website and have no concerns with the FCAC publishing it on its website. We would be pleased to discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at jp.bureaud@faircanada.ca or Tasmin Waley, Policy Counsel, at tasmin.waley@faircanada.ca.

Sincerely,

Jean-Paul Bureaud
President, CEO and Executive Director
FAIR Canada | Canadian Foundation for Advancement of Investor Rights