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ACORN Canada is an independent national organization of low-and-moderate income people with 140,000+ members in 20+ neighbourhood chapters across 9 cities.

Thank you for giving the opportunity to provide our recommendations for strengthening the Alternative Dispute Resolution (ADR) system. We believe that the current system fails to advance the public interest, fairness, and trust in our financial institutions.

- 1. First and foremost, we recommend adding the principles of fairness and transparency to ensure Canada's external complaints handling system meets international standards.** We believe both principles are critical to ensuring a rigorous ADR system. Our members, who are low-and-moderate income people feel powerless to obtain a fair resolution when disputes arise. Fairness should be the central principle to ensure that the process and decision-making is equitable. There is an inevitable power imbalance between banks and consumers, especially low-and-moderate income consumers and all consumers should feel empowered to challenge any decision they feel is unjust. The system also needs to be **transparent**. Canada's ombuds service should provide clear, accessible information on its website about its dispute resolution process and services, the basis for its decisions (e.g., law, principles of fairness, etc.), its board members and the process for their appointment, the staff leadership team, and how the organization is funded.

They should also publish an annual report with key statistics on:

- Number and type of complaints handled
- Respective number of complaints resolved in favour of complainant and financial institutions
- Number and types of complaints per financial institution
- Number of complaints discontinued
- Time to resolve disputes
- Ongoing systemic issues and emerging problematic trends and issues identified through analysis of complaint data
- Any trends in complaints deemed to be out of scope (e.g., if there is a significant rise in complaints related to particular products, services or practices that are allowed, but problematic for consumers, this may signal that regulatory attention is needed).

- 2. The FCAC should make sure that existing guiding principles are consistently applied.** In particular, the impartial and independent principle seems difficult to enforce in the current system in which banks can choose between two ECBs, one of which is for-profit. This dual ECB system with a for-profit option is a clear conflict of interest. **To ensure that fairness to consumers is in no way undermined, it is critical that Canada's ombuds service is both non-profit and 100% publicly funded. This will eliminate any potential conflicts of interest that might prevent the organization from acting at all times in the public interest.**

Canada should have a single, independent, non-profit ombuds service for all banking and investment service providers. Its express purpose should be to serve the public interest by upholding the rights of financial consumers to fair treatment, consistent with all applicable laws and regulations and associated formal guidance with respect to products, services, market conduct, and financial consumer protection.

Moreover, having a single ombuds service with a line of sight on the full continuum of products and services would significantly increase our ability to identify and more quickly address emerging



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problems with new products and services in investment and retail domains. It has **its obvious economies of scale**, reducing overhead costs and, if the service is publicly funded as we're recommending, would concentrate more resources in service delivery for greater impact.

We believe OBSI should be this body, based on its strong performance to date, but that its mandate and capacity should be strengthened.

- a. **The ombuds service should be federally mandated by legislation and accompanying regulations and publicly funded** to avoid any potential conflict of interest in the delivery of its mission and its core functions.
- b. **The ombuds service should also have sufficient resources and capacity to effectively promote its services to financial consumers**, particularly members of vulnerable populations who typically lack the resources to recover from financial losses caused by mistakes and/or wrongdoing by their financial institution. Civil society consumer advocacy and financial help services that typically assist vulnerable consumers, as well as organizations, networks, and associations with scaled reach into Indigenous, newcomer, racialized, low-income, and LGBT2QS communities, as well as seniors and people with disabilities should be involved in disseminating information about the ombuds service and how to contact them.
- c. Canada's ombuds service should be accessible. **Services must also be designed with other types of barriers in mind, using a client-centred design process to ensure fair access to, and delivery of, services.** Challenges vulnerable individuals may experience include, but are not limited to, language, literacy, mobility, distance, cognitive, mental health, cultural, and digital literacy and access barriers, as well as low income.
- d. The **service should provide complainant information and assistance as a core service to consumers** to ensure equitable access for those who might otherwise be prevented from successfully accessing and navigating the complaint process due to personal barriers. **This function should include:**
 - **Informing consumers of their right to recourse** through the ombuds service;
 - **Informing them how to access the ombuds service** through diverse channels consistent with statutory/best practice accessibility and DEI standards;
 - **Providing consumers who contact the ombuds service with clear, plain language information on the services offered**, how the complaint process works, and how their complaint will be assessed;
 - **Assisting complainants who need help to formulate their complaints appropriately** or to understand why they do not have a valid complaint; and
 - **Providing vulnerable consumers with an advocate to accompany them through the process** to ensure they can participate effectively, if they require such support and if they have no alternative support reasonably available to them.

Complainant information and assistance materials and processes should be tested with vulnerable groups to identify and address hidden barriers and optimize the service for everyone.

3. **The decisions of the ombuds service should be binding.** Wherever possible, an ombuds service should seek to resolve valid complaints through a mediation process resulting in mutually agreed to solutions. Where this is not possible, it must be able to propose binding solutions through a fair and transparent process, with a single-level appeal mechanism. **This should not be a binding arbitration process** as this would necessarily involve both sides seeking legal representation, which financial institutions can easily afford, and most consumers cannot. For an



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ombuds service's decisions to be truly binding, they must also be enforced. After a reasonable waiting period (defined in regulation), the ombuds service should be mandated to refer cases of non-compliance to the Office of the Superintendent of Financial Institutions (OSFI) or the Financial Consumer Agency of Canada (FCAC). OSFI/FCAC should be legally mandated, in turn, to impose proportionate financial penalties on non-compliant institutions and to publish these with a rationale, naming the financial institution involved. Regulations should provide for escalating fines over time for continued refusal to comply with an ombuds service decision and/or repeated failure by the same institution to comply with different decisions. **To ensure non-compliance penalties are fair but also adequate to the task, Finance Canada should periodically review the penalty scheme** (i.e., every three years) to assess its effectiveness and make any necessary adjustments to penalty levels set out in regulation.

Alternate financial services

In addition to complaints in relation to banking products, there is vast area of non-banking products that low-to-moderate are forced to rely on but the complaint redressal system in case of such products is woefully inadequate. **The FCAC needs to engage its provincial and territorial consumer protection counterparts to create a comparably robust ombuds service for alternative financial services.**

ACORN Canada conducted a [study](#) which shows that while consumers continue to take out payday loans which have 500% interest, there is a 400% increase in the uptake of installment loans between 2016 and 2020. Installment loans have 60% + rate of interest and result in much longer period of debt as they are much higher amount of loans. This increase and massive and reinforces the issues low-and-moderate income people are facing in accessing fair banking options.

At present, there is no comparable, single, ombuds service governing this portion of the financial marketplace, leaving many consumers without an accessible source of recourse for unresolved complaints. We should be working to ensure that a robust external complaint handling system, consistent with international standards and best practices, exists in every province/territory for provincially regulated financial product and service providers. We believe the federal government, through FCAC, can play a positive catalytic role by initiating discussions with its provincial counterparts to assess what does exist and how this might be strengthened, more closely aligned with accepted standards and best practice, and made more consistent across the country.

For more details, please contact the ACORN office
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