

October 14th, 2021

Director General
Financial Services Division
Financial Sector Policy Branch
Department of Finance Canada
James Michael Flaherty Building
90 Elgin St
Ottawa ON, K1A 0G5

Subject: Consultation on the Operations of External Complaint Bodies (ECB)

Dear Director General,

On behalf of 95,000 small and medium-sized enterprises (SMEs) that are members of the Canadian Federation of Independent Business (CFIB), we are writing to provide input to the consultation on the operations of External Complaints Bodies (ECB). SMEs rely heavily on banks to not only help manage and finance their business but also to help them with their personal financing needs. That is why it is important that any external complaints handling process also address the specific needs of SMEs.

In 2018, we wrote to the government expressing our concerns with many major banks shifting their external complaints handling process away from the Ombudsman for Banking Services and Investments (OBSI) to a service called ADR Banking Ombuds Office (ADRBO) run by an arbitration corporation. We were worried that the shift from an independent not-for-profit organization to a profit-based company could lead to a less effective process for managing consumer banking complaints, including those from SMEs. We were pleased to see the Financial Consumer Agency of Canada (FCAC) conduct a review of Canada's two ECBs and publish a report in 2020 titled, *"The Operations of External Complaints Bodies"*.

FCAC's report provided further insight into some of the limitations of Canada's current ECB process. In particular, we remain very concerned that with four of Canada's largest banks having moved from OBSI to ADRBO; OBSI is no longer able to provide commentary and report on systemic issues and consumer complaint trends in the sector – which are services not provided by ADRBO. Consequently, Canadian bank customers, including SMEs, no longer have access to a comprehensive banking ombudsman service.

We are also concerned that this current framework encourages banks to choose the ECB that best suits their purposes, in an apparent "race to the bottom" for consumers. In FCAC's report, both ECBs were analyzed using the following metrics:

- Timeliness of their reporting
- Accessibility of their complaint handling process
- Accountability
- Impartiality and independence
- Transparency
- Effectiveness

Analyzing these metrics, FCAC found that in most areas, that OBSI performed on par with, if not better than ADRBO. The FCAC also found that in many areas, “ADRBO is not meeting the FCAC’s expectations...”¹ It follows, that a continuing shift by the banks to ADRBO and away from OBSI will negatively affect the complaint resolution experience of consumers and SMEs. Canadian consumers and SMEs deserve a fair, impartial mechanism for dispute resolution and the results from the FCAC report and anecdotal feedback we have received from small business owners, is that impartiality may not be happening in the current system.

Allowing banks to choose which ECB will handle complaints from their customers does not work in the interest of consumers or SMEs. Instead, it seems to bring additional complexity, inefficiencies and operational differences that ultimately result in a less effective complaint handling process.

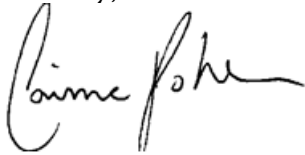
To address these issues and ensure there is fairness for the Canadian banking consumer, we would suggest the government do the following:

1. Require ECBs to provide complainant assistance such as navigating through the complaint process, and what they need to do/provide to file a complaint.
2. Consider creating one not-for-profit banking ombudsman with the power to impose binding arbitration, as is consistent with international standards.
3. If having a single ombudsman is not feasible; the government should give the choice to the consumer regarding which ECB should be used to resolve their complaint(s), not the banks.

Thank you for your attention to this matter. Should you or your staff have any questions or would like to discuss this further, I can be reached at 613-235-2373 or email

Corinne.pohlmann@cfib.ca.

Sincerely,



Corinne Pohlmann
Senior Vice-President, National Affairs & Partnerships

¹ <https://www.canada.ca/en/financial-consumer-agency/programs/research/operations-external-complaints-bodies.html>