

Director General  
Financial Services Division  
Financial Sector Policy Branch  
Department of Finance Canada  
James Michael Flaherty Building  
90 Elgin St.  
Ottawa, Ont. 1A 0G5

**Subject: Strengthening Canada's External Complaint Handling System submission**

Hello, I'm Ellen Roseman, a newspaper journalist who covered the consumer advocacy beat for 21 years at the Globe and Mail until 1997 and another 20 years at the Toronto Star. I wrote frequently about banking complaints and how customers were treated by the big banks' internal and external complaint handling systems.

In my columns, I often spoke to Michael Lauber, the ombudsman who started with the Canadian Banking Ombudsman in 1996 – later expanded and renamed as the Ombudsman for Banking Services and Investments (OBSI) from 1997 onwards.

In 2008, I wrote about the RBC's decision to leave OBSI and retain ADR Chambers, an independent dispute resolution firm, to provide an appeal process for clients who disagreed with the RBC ombudsman's findings. Canada's biggest bank was not simply trying to improve timeliness of complaints handling, as indicated, but also to show its displeasure with OBSI's new terms allowing it to identify systemic shortcomings and recommend compensation for all affected customers – not just for the person who complained.

"To me, it shows that Canada's largest bank prefers to be held accountable only for problems that affect one customer at a time," I wrote here, <https://authory.com/EllenRoseman/RBC-opts-to-go-solo-on-complaints?t=AGFL-ilAje>

In 2011, I wrote about TD Bank's similar decision to bypass OBSI's dispute resolution for banking complaints not resolved by its internal ombudsman and refer them to ADR Chambers Banking Ombuds Office (ADRBO). TD also said it wanted faster resolutions, but Doug Melville (OBSI ombudsman at the time), said timeliness was irrelevant since OBSI was not doing full investigations of banking complaints and used facilitated settlement for those with merit.

The Conservative government in Ottawa, with Jim Flaherty as finance minister, did not insist on mandatory participation by the banks in OBSI and did not try to stop RBC from leaving in 2008 or TD in 2011. Melville accused Ottawa of allowing "a race to the bottom" in letting banks choose their own complaints mediators in this column, <https://authory.com/EllenRoseman/TD-Bank-departs-from-OBSI>.

In a 2012 article, <https://authory.com/EllenRoseman/Roseman-TD-ranks-as-number-one-in-OBSI-complaints>, I reported that TD was leading other banks in consumer complaints when it

left OBSI. I quoted OBSI chair, Peggy-Anne Brown: "Allowing banks to choose a dispute resolution provider gives all the power to the financial institution and none to the consumer. Make no mistake, this is a power struggle between the interests of consumers/investors and the interests of large and powerful financial firms."

Later in 2012, I covered Jim Flaherty's decision to allow multiple external bodies to handle banking complaints, with oversight by the Financial Consumer Agency of Canada (FCAC), and Doug Melville's view that it would not help: "ADRBO is a private, for-profit company that charges RBC and TD based on private arrangements for a mandate much more limited than OBSI's," he said. "There is no independent board oversight, just as there is no apparent stakeholder input into ADRBO's funding models, mandate or processes."

<https://authory.com/EllenRoseman/New-banking-consumer-complaints-rules-are-no-fix-Roseman>

In another 2012 column, I talked about an RBC customer, Estella Yeung, who felt that RBC and ADRBO had not treated her banking complaint in a timely manner and had forced her to move her mortgage to another lender, resulting in \$23,000 worth of extra costs. "ADR is a private mediation service funded by the banks and the potential for conflict of interest in refereeing a complaint is forever present," Yeung told me. <https://authory.com/EllenRoseman/Take-your-mortgage-elsewhere-RBC-tells-customer>

Fast forward to November 2018, when three of the Big Five Canadian banks no longer used OBSI for banking complaints and the latest defector was National Bank (the sixth largest). Meanwhile, three consumer groups had joined forces to launch a campaign for a single banking ombud service. Here's what I said in a Star column, summarizing their views, <https://authory.com/EllenRoseman/Banks-get-to-choose-their-own-mediators-for-customer-disputes-Is-that-fair>

"Under the current system, banks are free to pick their own referee. They may look for companies known to resolve consumer problems in the banks' favour. For-profit mediators may feel pressure to rule against consumers, so they continue to get the banks' business. Consumers are in a powerless situation when banks pick mediators. Only the banks get to choose which provider is used.

"FAIR Canada did a detailed review of both banking ombudservices in September (2018) and found OBSI was superior to ADRBO in many areas (disclosure: I am a board director and vice-chair of FAIR, a non-profit charity that advocates for financial consumers). Marian Passmore, then policy director of FAIR, said, 'Canadians who go to ADRBO to have their complaint addressed are not on a level playing field with those who go to OBSI to have their complaint resolved. This fundamental unfairness should not be permitted to continue.'

I concluded with my own views on the longstanding issue of big banks' desertion of OBSI in favour of their own choice of private mediator:

“After seeing the gap between the two approaches, you may wonder why we have a two-tier system in Canada. Who is responsible?

“I’ve seen this drama play out over the past decade and I blame the Conservative government led by Stephen Harper. He allowed RBC to leave OBSI, setting the stage for the other banks’ departures.

“Jim Flaherty, the former finance minister who died in 2014, tried to soften the blow by announcing higher standards for external dispute resolution providers. That was too little, too late.

“Prime Minister Justin Trudeau and Finance Minister Bill Morneau have a chance to uphold the consumer interest against the self-interest of the powerful big banks. I hope they have the courage to do so.”

Though I stopped writing for daily newspapers in 2019, I still advocate for financial consumers as the board chair of FAIR Canada (which I understand will make its own submission). I’m also the host of the monthly Moneysaver Podcast and an instructor at the University of Toronto school of continuing studies. My course is called Investing for Beginners.

This is the end of my submission. I had little time to prepare for the external complaint handling review and I don’t know enough to answer all the questions you raised. But I’ve seen the submission by CARP’s CEO Bill VanGorder and I agree with several key comments he made in his response:

- “CARP has long advocated for OBSI to be the single, unified and binding dispute resolution body for banking and investment services. Allowing multiple ombuds offices undercuts the effectiveness of the office, causes client confusion and poses a conflict of interest.”
- “There is a real and perceived impact on the impartiality and independence of an ECB when it is profit driven. The conflict of interest occurs when an ombuds office, entrusted with settling disputes, is paid by, and earns a profit from, one of the parties to that dispute. Investors would be right to question whom the for-profit ECB is accountable to: consumers or banks that pay for its services?”
- “CARP has long advocated that the government prohibit banks from using the title ‘ombudsmen’ or ‘ombudspersons’ for customer service employees paid by banks and financial firms. The terms infer an impartial dispute resolver, which is misleading. They can persuade customers to settle without any awareness of the conflict of interest behind a proposal or lose time that could be spent pursuing other forms of redress before their time and energy runs out.”

Respectfully submitted,

Ellen Roseman



[ellen@ellenroseman.ca](mailto:ellen@ellenroseman.ca)

<https://www.ellenroseman.com/>

<https://www.canadianmoneysaver.ca/TheMoneySaverPodcast>