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Senior Director, Financial Programs and Strategy
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Re: Consultation - Strengthening Canada's External Complaint Handling System in Banking

Dear ██████████

Thank you for the chance to share some general comments and observations from our regulatory perspective. These comments are based upon the findings of the Financial Consumer Agency of Canada (FCAC) reports entitled *Bank Complaint Handling Procedures* and *The Operations of External Complaints Bodies*, and upon the proposed guiding principles presented in your consultation document. Although we consent to the disclosure of our submission, we request that any personal identifiers be removed prior to publication.

We agree that as noted throughout the reports, it is critical to have an effective complaint resolution system to enhance consumer confidence in our financial systems. To this end it, any external complaint handling body ("ECB") system should provide a forum for clients to voice their complaints, to submit evidence in support of their complaint, and should also serve to help clients understand the reasoning behind decisions made by the system.

Effective ECBs provide benefits to consumers, banks and regulators, and add a cost-effective alternative to civil action. ECB's can also help to identify systemic issues that might impact large groups of consumers, and enable regulators to respond and adapt regulatory mechanisms more efficiently. As technology changes the landscape of financial services and introduces the potential for more complex issues, ECBs can provide specialized knowledge for dispute resolution.

The above-mentioned reports seem to support a conclusion that the current system of multiple ECBs is not functioning as optimally as it could. Specifically:

- Canadian consumers, in general, do not seem to be aware that there is an external system for handling complaints. Additional consumer education to promote awareness and understanding of the ECB system may be one approach to enhancing the current system.
- The current ECB model appears to have compounded the challenges of accessibility, as each ECB has its own, distinct process.
 - To be effective, an ECB must be accessible. As noted in the consultation document, most consumers are not well-equipped to navigate the complexities of dispute resolution. As a regulator, it seems in the best interest of the financial system and consumers for ECBs to provide clear instructions and support to consumers.
 - Guidance by the ECB could provide clear expectations for all parties regarding timing, communication, and potential outcomes, improving confidence in the system.
- From an oversight perspective, the current system requires resources out of proportion with the number of complaints arbitrated annually by the ECBs.
- The findings of the report support the premise that a single, independent, not-for-profit system funded by the industry with a single ECB operating under the regulatory framework of the FCAC may be the most effective system structure. This is consistent with international best practices.

We note that one of the two existing ECBs is a not-for profit focussed on dispute resolution for banking services and investments, while the other is a for-profit that provides mediation, arbitration, investigations and a number of other services for several different industries. Although the consultation did not find evidence that a for-profit funding model resulted in more favourable treatment of the banks, it did present evidence that the for-profit structure may cause the perception of conflict of interest in consumer groups. Such perceptions can undermine confidence in the financial systems, and may be ameliorated by either the ECB structure or through consumer education campaigns.

Further, Banks in Canada are not bound by the decision of an ECB, in contrast to countries such as Australia. The consultation finding that this can result in lower total penalty amounts in order to ensure agreement from the banks is an area of concern. Conversely, recommendations that are binding on banks may require a more formal adjudication process with appeal rights, which could add a level of complexity to the complaint handling system, possibly making the process more time-consuming.

Based on internationally accepted best practices, the guiding principles identified in the consultation paper support the goals of an ECB. We believe these guiding principles provide an effective policy framework upon which to address the concerns identified by the FCAC research and consultation



project. Following these guiding principles through this process will support an improved experience for Canadian consumers, whether it leads to a new system or to an update of the current system.

Best regards,

