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Consultation Document: Strengthening Canada's External Complaint Handling System

<https://www.canada.ca/en/department-finance/programs/consultations/2021/consultation-strengthening-canada-external-complaint-handling-system-banking/consultation-document-strengthening-canada-external-complaint-handling-system.html>

The foregoing Link tries to take on the appearance of being a guidance to assist persons making their Submissions to the Minister of Finance. However, there is NO provision included in the guidance to address the Canadian Minister of Finance published broken promise to Call a Public Consultation on the February 2020 FCAC **Bank Internal** Complaint Handling Procedures Review. This Linked M of F Public Consultation only serves to selectively divert attention to **External Body** Complaint Handling commentary which is absolutely secondary to the importance of addressing the real failings of the original FCAC **Bank Internal** Complaint Handling Procedures Review.

With this current M of F diversion, nothing has changed in the past three years practice of the M of F and FCAC avoiding oversight protection for financial consumers. In 2018, Wanda Morris, the then CARP Chief Advocacy and Engagement Officer commented that, "the system as it currently stands is deeply unfair because it protects the powerful banks over consumer interests" and "this [the CARP advocacy] effort is to put consumers, especially the vulnerable and older people, on an equal footing with the banks".

This Submission is an explanation that exposes how the Minister of Finance has now morphed and entirely abandoned their below February 19th 2020 promise to Call a Public Consultation on the far more important subject of the FCAC **Bank Internal** Complaint Handling Review than their tail-wagging **External Body** Complaint Handling comments.

From: [Department of Finance Canada](#)

News release

February 19, 2020 - Ottawa, Ontario - Department of Finance Canada

The Government of Canada is committed to ensuring that all Canadians benefit from strong consumer protection standards in their dealings with banks. When Canadians have disputes with their banks, they deserve access to a fair and impartial resolution process.

Today, Minister of Finance, Bill Morneau, and Minister of Middle Class Prosperity and Associate Minister of Finance, Mona Fortier, welcomed two reports from the Financial Consumer Agency of Canada (FCAC) on the complaints handling system in banking.

This refers to Consultation on Complaints Handling Systems in "Banking" and not exclusively limited to Consultation on External Complaints Bodies

The Department of Finance Canada will launch public consultations in spring 2020 to address the findings of these reports and look at how to strengthen the external complaints bodies system in Canada.

The government and FCAC will continue to work together to ensure Canadians are protected and the complaints handling system in banking is effective. In fall 2018, the Government of Canada introduced legislation to strengthen FCAC's mandate and grant it additional powers. These changes were introduced to ensure all Canadians benefit from strong consumer protection standards when dealing with their banks.

The M of F is now **ONLY** using a limited controlling questionnaire entitled "Strengthening Canada's **External Complaint Handling System**" just to take on the appearance that they are living up to their original February 19th 2020 published promise. This is Nonsense !

The preceding M of F Announcement very clearly states, “protection standards in their [ie. customers] dealing with banks” and “complaint handling in banking”. It does however also state a “look at how to strengthen the external complaints bodies in Canada” However, what could be the ulterior motive for the M of F to now **only** concentrating on a “**look at**” the **External** Complaints Bodies (ECBs) practices while totally abandoning the need to have the public expose the failings of the present FCAC Complaint Handling Procedures (CHP) These are the FCAC CHP that provide the Banks with the exclusive absolute power to totally control their discretionary freedoms ?

Here's a related rhetoric that refers to consumer protection standards when dealing with Banks - Talk is cheap - All that's needed is some good memory medication - Here's the "selling job" that now needs to be rewritten because its moral philosophy is inconsistent with the M of F ballgame.

Quotes

"Canadians deserve strong consumer protection standards including in their dealings with banks. I want to thank the Financial Consumer Agency of Canada for its reports. Our government takes the protection of consumers very seriously, and this review will help us examine further improvements needed for banks' complaints handling (*) systems." (*)Where are these claimed improvements for Bank Internal Complaint - Bill Morneau, Minister of Finance

() Where are these claimed improvements for Bank Internal Complaint Handling when the M of F first and only interest is relegated to a questionnaire entitled "Strengthening Canada's External Complaint Handling System" ? - Bill Morneau, Minister of Finance*

“Financial consumer protection is essential in ensuring that Canadians prosper. This is why I was tasked to enhance consumer protection and help to complete implementation of the new financial consumer protection framework. Continuing to ensure that financial consumers are treated fairly as part of enhanced consumer protection rules will allow Canadians to feel more confident in managing their finances, contributing to a stronger middle class.”

- Mona Fortier, Minister of Middle Class Prosperity and Associate Minister of Finance

Financial Consumers need help to understand that the Minister of Finance has now reneged on their important Announcement promise they made **17-months ago** to Call a Public Consultation on the February 2020 FCAC **Bank Internal** Complaint Handling Procedures Review. (When talking about transparency, it is now understandable why, over the past 17-months, the M of F continually ignored multiple requests they received for a firm date for this M of F Bank **Internal** Complaints Feb.19th 2020 Consultation)

It is not necessary to waste time making a 20-page Submission to the M of F explaining the many potent reasons why the imaginary present tail-wagging **External Complaint Bodies (ECB)** Process should be considered as less important than dealing with the real failings of the FCAC Bank-Controlled **Internal** Complaint Handling Process.

In addition to the ECBs being directly or indirectly financed by the Federally Regulated Financial Institutions (ie. Banks and financial institutions), it is particularly disturbing when one of the ECBs is actually a for-profit company who is paid directly by the Banks for reviewing every Complainant's case. Egregiously, this is **after the Bank itself has already had three steps** to settle any legitimate Complaint.

It would therefore be a useless exercise to pretend that there is a way to bring about a change for "Strengthening Canada's External Complaint Handling System". Instead, the Minister of Finance should be directing its efforts to bringing forward serious legislation to create one single truly independent ECB Agency having the power to enforce financial penalties against the big Banks etc. as well as the power to also make restitution to legitimate affected Complainants a reality.

[illegible]

Here is why the Minister of Finance 17-month delay in delivering on its promised Call for Public Consultation itself needs a critical independent review



© Modified Caricature Courtesy of the London Telegraph July 31st 2021

Here's a start. Conclusions are usually left until the end, so here they are -

No. 1- The M of F Call for Public Consultation pretends they want to hear from financial institutions, external complaints bodies, consumer advocates civil society groups, provincial stakeholders. By the way, interested members of the public are also welcome to provide input.

If this is a credible real interest by the M of F encouraging these Submissions, it needs to be questioned why there was not a wider communication promotion distribution of this M of F "Call for Public Consultation" Announcement.

How do all these potential named interested parties find out about the M of F Public Announcement if the M of F typically does not send out Notices directly to a wide range of media outlets ? If there is an honest interest by the M of F reaching out to the maximum potential of interested parties, it seems that someone in M of F office should be less infatuated with using Twitter, Facebook and LinkedIn.

It goes without saying, there must be hundreds if not thousands of members of the public, who have been negatively affected when dealing with the Banks and subsequently ADRBO and OBSI, who are totally unaware of this M of F Public Consultation Announcement because they are not attached to the social media.

One other point of contention that questions the M of F sincerity in allowing all voices to be heard. The M of F have said they will publish some but not all copies of the Submissions they receive. The M of F might even cherry-pick information and summarize some of the Submissions they receive. And this is supposed to be a transparent "public consultation" ? The M of F say they will only publish some of the Submissions **after** the closing date. This again restricts some viewpoints to be heard that could assist other persons commenting on the subject matter.

The Minister of Finance should take a leaf from other Canadian Securities Regulator's playbooks. Not only have other Regulators made a practice publishing **all** the respectfully worded Submissions they receive, they even publish the Submissions **as they are received**. For some reason, that is of no interest to the M of F.

No.2- In the bulletin, "Consultation on Strengthening Canada's External Complaint Handling System in Banking" there is so much twisted talk that fails to advise that the M of F has broken its February 19th 2020 promise to Call a Public Consultation on the February 2020 FCAC **Bank Internal** Complaint Handling Procedures.

The bulletin title alone has a twisted inference. This is not a matter of semantics. It should say "Complaint Handling System **AFTER** Banking Complaint Handling. The External Complaint Body (ECB) Handling is promoted to the world as being independent of the Banking so why the title, "Canada's **External** Complaint Handling System **in** Banking" ? ? ? ? ? ECBs are extraneous to banking.

The Minister of Finance in fact **admits that it has no intention** of living up to its February 19th 2020 Call for a Public Consultation on the February 2020 FCAC **Bank Internal** Complaint Handling Procedures. Instead, the M of F now takes a position that it will leave it up to the FCAC to use "supervisory tools" to address issues arising from the February 2020 FCAC **Bank Internal** Complaint Handling Procedures (CHP) Review. Hasn't that using the "supervisory tools" already been the mandate of the FCAC ? With this M of F now decision, where has been the past M of F oversight of the FCAC ?

With these behind-the-scenes non-transparent "supervisory tools" discussions between the FCAC and the Banks, the result is that the FCAC have in the past bestowed the total absolute power for the Banks to control the FCAC CHP outcome of any and all complaints against the Banks.

There is NO possible mechanism in the FCAC CHP operation for equal power for the Complainant to pressure the Bank to concede to a legitimate claim against a Bank. All the Bank has to do is bounce the Complainant from the FCAC CHP STEP ONE to STEP TWO and then to the Bank Internal Ombudsman at STEP THREE.

And then of course, the STEP THREE **Bank Internal** Ombudsman is free to bounce the unsuspecting Complainant to the ECB **ADRBO** or in the case of a couple of Banks, it is the **OBSI**.

This explains why, after the FCAC CHP STEP ONE and STEP TWO, there is one particular Bank **Internal** Ombudsman at STEP THREE who has "Opened Up" **6551** Complaint Submissions over a 9-year period. However, the **External** Complaints Body Ombudsman **ADRBO** only "Opened Up" **1305** of those related Complaints. More telling is the fact that the (for-profit) **ADRBO** only resolved or settled **79 (6%)** out of the total **1305** Complaints.

ADRBO do NOT disclose in whose favour the cases were resolved or settled. These are the reasons why the M of F should have followed through and first Called the Public Consultation on the FCAC **Bank Internal** Complaints Handling Procedures Review. In turn it would have yielded good statistical material as a lead in to the Consultation on the **External** Body Complaints Handling issues.

No.3- Then there is the question of OBSI and ADRBO hiring employees freshly after they leave employment with the Banks.

Here comes the perception of potential collusion. When a Complainant is dissatisfied with a Bank-Controlled Internal Ombudsman outcome of their Complaint, the Complainant is directed by the Bank Internal Ombudsman to take their Complaint to the ECBs **ADRBO** or **OBSI**. The FCAC then permits the Bank Internal Ombudsman to freely discuss the Complainants case with the ECBs **ADRBO** and the **OBSI**.

Here's a fine example of the potential conflicting influence of this revolving door employment that can be used to the detriment of any claimed fair and unbiased treatment that the FCAC Complaint Handling Process can be subjected to.

This close cross communication between the Bank **Internal Ombudsman** and the supposed independent **External** Complaint Body **ADRBO** or the **OBSI** is allowed because the Complainant naively signed away their right to privacy in a Bank Internal Ombudsman Agreement document. That is before the FCAC STEP THREE Bank **Internal** Ombudsman would even consider reviewing the Complainant's case.

Here is a case example: This is the story of one person who operated as a Bank Internal Assistant Ombudsman for 10+ years adjudicating Complainant's cases. During those 10+ years, the Bank Internal Assistant Ombudsman had lots of opportunity to discuss and influence the ECBs to some degree or other with reasons why the **Bank-Controlled Internal Assistant Ombudsman** had rejected Complainants cases.

And now that person recently joined one of the ECBs as a Senior Investigator. There is more than a perception of past and future conflicts and collusion here. How about all the past negative influences that came from this Bank Internal Assistant Ombudsman rationalizing why this **this Bank Internal Assistant Ombudsman had already rejected Complainants cases ?**

Even the Bank Internal Ombudsman being allowed to discuss Complainants cases with the ECB more than smells. This has a great potential for collusion entirely to the detriment of an unknowing Complainant. **In other words, the Complainant has the cards stacked against it because they have no knowledge of the degree of lack of veracity that a Bank-Controlled Internal Assistant Ombudsman delivers to the ECB.**

The foregoing exists even though the Bank-Controlled Internal Ombudsman may claim that their findings and conclusions provide recommendations that are supported by facts and are guided by fairness principles. There is contradictory evidence to support the subject narrative of this story that was extracted from this particular Bank through the federal Office of the Privacy Commissioner enforcing the PIPEDA Act that must be kept confidential.

No.4- The July 16th 2021 M of F Announcement of the Call for Public Consultation on “Strengthening the External Complaint Handling System” takes on the appearance that the M of F are really compassionately serious about improving and protecting consumers interests. This promise of a “Strengthening” attribute is a misguided fallacy and deception that the M of F is trying to slip in for a self-ingratiating appearance.

How can there possibly be any change in the ways and means in the External Complaints Handling Systems (ECHS) operations and incentives when there has been little or no Regulatory oversight interest in the ECHS by the M of F ?

Recommendations:

- (a) I recommend that there be a single statutory External Ombudsman with a binding decision authority . Combining this new agency with OBSI for both banking and investments would be most acceptable.
- (b) The Internal Bank-Controlled Internal Ombudsman should be eliminated. The basic principle is that the Banks should not be permitted to hire their own Referee as is manifested with the present FCAC permitted CHP operating system. This would streamline the Complaint process, reduce consumer confusion and enhance consumer trust in the Banking and Investor system.
Banks should also be held to 90 calendar days from receipt of a Client Complaint to respond.
- (c) I strongly recommend that this Consultation be conducted in parallel with a separate Consultation on Bank **Internal** Complaint Handling . Such a Consultation is in the Public interest because of the significant socio-economic issues involved.

Permission is granted for Public Posting of this Comment letter. I urge Finance to post it promptly so that other stakeholders can be made aware of my commentary. No changes or edits are permitted. If it is not publicly posted in full, please consider the Submission withdrawn.

Do not hesitate to contact me for any clarification of the viewpoints expressed in this Submission.

Respectfully Submitted

Peter Whitehouse
Financial Consumer Advocate

cc. Minister of Finance, Hon. Chrystia Freeland

END

