

Financial Ombudsman Schemes: Enhancing Consumer Trust and Confidence

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Agenda

- ① Do Financial Ombudsman Schemes (FOS) Build Trust and Confidence?
- ① What a FOS Does Well, and Does Not
- ① FOS Accessibility
- ① Relevant International Best Practices

Does a FOS Build Trust and Confidence?

- ⦿ Yes, but only when part of a broader and effective legal and regulatory framework
- ⦿ Historically, bank solvency and overall financial market stability and employment were bigger issues/concerns for the public and regulators; that has changed
- ⦿ Financial consumer complaints are only an issue when a problem is encountered; then it matters a great deal
- ⦿ A FOS is no substitute for good consumer-facing market conduct regulation, in fact it needs the clear benchmark

Does a FOS Build Trust and Confidence?

FOS is also no substitute for good internal bank-level dispute resolution

- ◎ Best practice would involve a 2-tier system (effective internal complaint handling by the bank, then escalation to independent industry-level dispute resolution if unresolved)
- ◎ Vast majority of complaints appear to be resolved at the bank level (good business **and** good public policy); minimizes cost to industry of FOS
- ◎ Good internal complaint data is generally not obtained from all financial service providers (would be very useful for public policy development)

What a FOS Does Well

- ③ Gives government officials a credible, impartial place to refer consumer complaints about their financial service provider
- ③ An independent and impartial review provides “closure” even for complaints where we say “no” – usually ends the matter, which benefits the participating firms
- ③ Provides an accessible way to address complaints that would not otherwise be resolved through the courts due to factors such as cost, time, intimidation/fear of court process

Other Benefits to Society from a FOS

- ③ Lower cost process for all parties (consumers/investors and financial services providers)
- ③ Diverts many consumer complaints away from the already overburdened court system – likely averts some class action lawsuits
- ③ Learnings from complaint cases and independent assessments by a FOS structure provide valuable feedback that helps financial service providers to improve

Other Benefits to Society from a FOS

- ③ Individual complaints can identify systemic problems that firms and regulators may not be aware of – early warning system
- ③ Issues highlighted in complaints are valuable for public policy development by regulators and legislators
- ③ Enables the state to deal selectively and effectively with regulatory priorities without mixing in compensation
- ③ Allows a different (non-legalistic) standard to be applied for compensation (e.g., fairness)

What a FOS Does Not Do Well, Nor Should It

- ⦿ Ineffective tool against financial sector corruption
- ⦿ Does not address concerns over the pricing of financial products and services
- ⦿ Does not deal with concerns about access to credit
- ⦿ Does not deal with regulatory breaches; different issues and different standards ("fairness" versus "legality")
- ⦿ Punishment or removal of individuals or firms

The Financial Ombudsman – the value of the overall approach

- ⊙ Enquiries and referrals
- ⊙ Translation
- ⊙ Mediation and conciliation
- ⊙ Investigation
- ⊙ Binding decision with reasons
- ⊙ Feedback to all stakeholders (parties to the dispute, and to public, regulator, government on broader themes)

FOS Accessibility is Key to Effectiveness

- ③ Make it free, informal, and non-legalistic; adopt a fairness standard; employ well-trained consumer-facing staff
- ③ Ensure no impact on legal rights of the consumer
- ③ Stop the limitation period clock to protect legal rights
- ③ Difficult to make a FOS well-known, but very important to be able to find it when a problem arises
- ③ Success very reliant upon firm disclosure and referrals backed by regulatory rules – can be an ongoing challenge

The Biggest Challenges

- ③ Maintaining scheme independence
- ③ Establishing and maintaining credibility with all stakeholders
- ③ Implementing a fair funding structure that reliably meets changing operational needs
- ③ Managing capacity with highly variable complaint volumes (occasional spikes during market corrections)
- ③ Defending fairness versus legality in the mandate

Relevant International Best Practices and Effective Approaches

- ② Two-tier structure: complaint must go to provider first
- ② Strong internal complaint handling requirements and practices
- ② Keep the FOS independent of stakeholders
- ② Hybrid funding (base funding plus case fees)

Relevant International Best Practices and Effective Approaches

Consider the effective approaches developed by Ombudsman practitioners around the world

- ⦿ Independence, to secure impartiality
- ⦿ Clarity of scope and powers
- ⦿ Accessibility
- ⦿ Effectiveness
- ⦿ Fairness
- ⦿ Transparency and accountability

The Financial Ombudsman – Making it Work for Industry

Key learnings for industry

- ③ Document, document, document
- ③ Do a great internal review of the complaint
- ③ Engage early when escalated to the Financial Ombudsman
- ③ Have authority to settle
- ③ Speak to senior FOS staff to get an informal view on specific situations

Questions?

For further information

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