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Comments on Proposed Amendments respecting Reporting, Internal Investigation and Client Complaint Requirements

The Financial Consumer Agency of Canada (FCAC) appreciates the opportunity to comment on the Proposed Amendments respecting Reporting, Internal Investigation and Client Complaint Requirements (Proposed Amendments).

FCAC's mandate is to supervise federally regulated financial entities and strengthen the financial literacy of Canadians. As a regulator, FCAC monitors and supervises the compliance of federally regulated financial institutions, external complaints bodies (ECBs) and payment card network operators with consumer protection measures set out in legislation, public commitments, and codes of conduct.

Integral to our mandate is the responsibility to foster an understanding of financial services and related issues in collaboration with other government agencies, regulators and stakeholders, including industry and consumer groups. FCAC submits this comment letter in this context and with our full appreciation for the excellent and long-standing working relationships with IIROC, the OSC, the Canadian Securities Administrators and our other provincial counterparts.

Our comments are limited to the consultation questions relating to retail client complaint handling requirements.

FCAC's Reviews of Banks' Complaints Handling Procedures (CHPs)

In 2018/9, at the request of the Minister of Finance, FCAC examined the complaints handling procedures (CHPs) of Canada's 6 largest banks and assessed whether they resulted in complaints being handled in an effective, accessible and timely manner.¹

The [CHP Report](#) was published in 2020 and concluded that the banks' CHPs were generally effective, accessible, and timely for simple complaints that could be resolved at the first point of contact, but that they were less effective, accessible, and timely when it came to more complex complaints that required referral to higher levels.

Since the release of the report, FCAC has been working with Canadian banks to establish better complaints handling procedures. New requirements in the [Bank Act](#) and FCAC's [Guideline on Complaint-Handling Procedures for Banks and Authorized Banks](#), which will come into force on June 30, 2022, are intended to address the above noted areas for improvement and to ensure that financial consumers have access to more robust complaint handling regimes that are consistent with applicable international best practices.

Key enhancements to the complaint handling regime at the federal level include:

- The inclusion of a broad definition of "complaint" in the *Bank Act*, ensuring that any complaint related to a bank product or service falls within the complaint handling regime.
- A blanket requirement that, in all cases where a bank or ECB must provide information pursuant to the complaints process provisions in the *Bank Act*, such information be provided in a manner, and using language, that is clear, simple, and not misleading.
- Enhanced record-keeping requirements for complaints-related information.
- A requirement to designate an individual with overall responsibility for the bank's complaint handling regime and designate one or more employees or officers to receive and deal with complaints.
- A requirement that the timeframe for referring complaints, that have not been closed or resolved, to a designated employee or officer does not exceed 14 calendar days from the date on which the complaint is first communicated to a financial institution.
- A 56-day time limit for a bank to deal with a complaint; reduced from the previous 90-day response time to provide better alignment with international standards.
- Specific training requirements.

¹ This review was conducted concurrently with a review of the ECBs' operations against their market conduct obligations and best practices for external dispute resolution. The [ECB Report](#).

Concerns related to differences between regulatory provisions for complaints-handling between the securities and banking sectors

FCAC recognizes the jurisdictional authorities when it comes to the regulation of financial services as well as the different regulatory provisions for complaints-handling between the securities and banking sectors.

While these frameworks differ in numerous ways (internal complaint resolution response times, the mechanisms for obtaining redress and provisions regarding access to ECBS), the objectives of these frameworks are aligned in seeking to provide fair and effective dispute resolution for investors and consumers.

Some of the differences appear to be more related to technical details rather than issues of substance. Financial institutions have highlighted these differences to us and have signaled the possibility of these technical differences creating duplication and/or a lack of clarity in compliance expectations for financial institutions. In addition, they have identified the potential for confusion for consumers and investors.

A consistent approach to complaints-handling would have benefits

A more consistent approach to complaints handling across the banking and securities sectors would serve both the industry and financial consumers. Financial consumers would be able to rely on the same approach irrespective of the type of product and where it was purchased. Financial institutions selling products from more than one sector would benefit from harmonized requirements.

For example, we note that the Proposed Amendments include a requirement to resolve complaints within 90 days. This proposed requirement is approximately 60% longer than the new Canadian federal requirements for banks (56 days – effective June 30, 2022), and the standard in the United Kingdom (56 days) and the US (60 days). In addition, it is more than twice as long as permitted by regulators in Ireland (40 days) and Australia (30 days).

Given that the issues consumers bring to their financial institution's attention through complaints are time sensitive, FCAC has been an advocate for shorter timelines. Our report on complaint handling showed that consumer issues, when not addressed, can grow more acute with each day that passes and result in a lessening of confidence in the financial institution and regulatory framework.

FCAC appreciates IIROC's past engagement on these and other topics, and we look forward to continuing the dialogue to advance financial consumer protection. We welcome the opportunity to continue to work towards better alignment of complaint handling requirements that would be of benefit to both financial consumers and the financial services industry.

We thank you for the opportunity to provide our comments and views in this submission.

Should you have any questions, please feel free to contact FCAC's Secretariat at secretariat@fcac-acfc.gc.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Judith Robertson', with a long horizontal flourish extending to the right.

Judith Robertson, Commissioner

Financial Consumer Agency of Canada

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