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VIA EMAIL

Financial Consumer Agency of Canada
Supervision and Promotion Branch
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Re: Consultation on FCAC's proposed *Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks* (the "Proposed Guideline")

The Canadian Advocacy Council of CFA Societies Canada¹ (the "CAC") appreciates the opportunity to provide the following comments on the Proposed Guideline. We support the process that is underway examining complaint handling and the Canadian framework for dispute resolution services. We are very interested in the structure and efficacy of dispute resolution and complaint handling processes that exist in the financial services industry, and have recently commented on similar issues to the Department of Finance Canada with respect to its consultation on strengthening Canada's external complaint handling system, and on related matters to various provincial securities authorities.

We understand the Proposed Guideline is intended to set out FCAC's expectations with respect to compliance with the new complaint-handling provisions in the *Bank Act* and the *Financial Consumer Protection Framework Regulations*. We agree with the key principles of effectiveness, timeliness and accessibility as expressed in the Proposed Guidelines. We believe it is imperative for the principle of effectiveness to capture the concept of continuous improvement with respect to the resolution of systemic and/or reoccurring issues that impact financial consumers. For example, if institutions receive complaints about similar issues, the complaint handling mechanism, either internal or external, should be empowered to not only address the individual complaints, but to analyze trends in complaints, with the scope of broadly mitigating future complaints

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 19,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors' interests come first, markets function at their best, and economies grow. There are more than 178,000 CFA Charterholders worldwide in over 160 markets. CFA Institute has nine offices worldwide and there are 160 local member societies. For more information, visit www.cfainstitute.org.

through policy recommendations. This mechanism can collectively develop a more stable and confidence-inspiring financial services ecosystem. If tackled as an industry, we recognize this may require co-ordination among various financial institutions, but also with other financial and securities regulators in order to address any policy gaps that are identified through the complaint resolution process. Complaints can be a credible indicator of systemic problems that can only be solved through policy action or rule-making activities. In this light, sharing complaint data amongst regulators, institutions and external dispute resolution bodies is an important step towards meeting the effectiveness principle. The longer-term result of analyzing complaints data broadly and taking resulting action where warranted will very likely develop a more effective ecosystem that self improves thus lowering the resulting ongoing maintenance and resolution costs for members, and implicitly delivering an improved consumer experience.

We understand that a bank's redress and reimbursement policies typically provide for reimbursement of direct damages such as fees. However, in many cases it will be important for banks to assess losses more holistically – for example, an error in a mortgage application could lead to a lost deposit and other opportunity costs, and not just a lost application fee. In light of the accessibility principle, it would be important for institutions to disclose their policies around client redress to ensure impacted clients can educate themselves as they pursue their complaints.

From a financial consumer's perspective, the timeline for dealing with complaints is an important feature of the complaint resolution process; some retail consumers may be experiencing a life changing event as a result of the circumstances of the complaint. We understand that banking legislation and regulation provides that a complaint must be dealt with within 56 days following the day it is received. We believe the term "received" is interpreted differently by different financial institutions; some view it as the day the consumer made the complaint to the first person the consumer spoke to in the institution, while others see it as the day the file is documented as opened. While we do not believe the day the clock starts necessarily needs rigid definition, the Proposed Guideline correctly emphasizes the importance of quick resolution, while implicitly recognizing that in certain cases delay is caused by the complainant (e.g., lack of response to questions) rather than the bank. We further believe that consumer and complainant expectations might be better managed through additional proactive communication on the part of financial institutions and dispute resolution bodies, such as the publishing and maintenance of representative service level agreements ("SLAs") for intermediate steps in the complaint handling process, such as first-responses after initial complaint, and representative example timelines for frequently encountered complaint types.

The principle of accessibility is also quite important from a consumer perspective. The Guideline currently provides that a bank's complaint-handling policies and procedures should ensure that all employees who deal with complaints are able to help consumers navigate the bank's complaint-handling process, including referring the complaint to the ECB. We support the requirement to provide complaint assistance, as banking

consumers implicitly have a much lower level of knowledge and bargaining power than banks. The assistance should encompass walking a complainant through the system, but could also include assistance identifying relevant or related issues (e.g., an issue regarding fees could also relate to an issue concerning product appropriateness).

While we are broadly supportive of public disclosure, we are unclear whether the public dissemination contemplated by the Guidelines (annually and on request, including description and nature of complaints) serves its purpose if it only references complaints dealt with by a bank's most senior designated employee, and not other designated employees. We believe consumers would benefit from easier access to a detailed summary of complaints data, across all banks and on a more frequent basis.

The banking legislation and regulations require that a bank create records of all complaints and retain them for seven years. While the retention period is not directly addressed in the Proposed Guideline, we believe that banks should be required to create records of all complaints, however the retention period (given the historical volume of complaints) may place an undue burden on some of the institutions subject to the Proposed Guideline and take a significant amount of time to action. The Proposed Guideline could be amended to address this record retention issue, with a view to lessening the onus or potentially aligning it to limitations period of the particular jurisdiction.

We are very supportive of the prohibition on using misleading terms with respect to complaint-handling procedures, including any term that suggests independence from the bank where it doesn't actually exist. In particular, we have had specific concerns with the use of the term "ombudsman" in a prevalent manner by certain banks, which is very confusing for consumers.

Concluding Remarks

We support efforts to continue to move the discussion forward with respect to reviewing dispute resolution and complaint handling processes. The broader framework of our Canadian financial ecosystem demands that we ensure this process is consumer friendly, efficient and transparent, and supportive of financial consumer trust in the sector.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

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