

**Agenda Item 4(c)(iii)
November 23/21 EOC Meeting**

Consultation on FCAC's proposed Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks

From: Financial Consumer Agency of Canada

Current status: Open

This consultation is open. All submissions must be received by **December 11, 2021**.

The Financial Consumer Agency of Canada (FCAC) invites comments on a proposed *Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks* (Guideline) in support of the implementation of the new Financial Consumer Protection Framework (FCPF) in the [Bank Act](#). The FCPF introduces new or enhanced consumer protection measures that will further empower and protect consumers in their dealings with banks and authorized foreign banks (banks).

The Guideline sets out clear principles and expectations that banks should use when developing their policies and procedures to ensure they deal with consumer complaints promptly, consistently, and in a manner that is easy for consumers to navigate and understand.

The consultation will give all interested parties an opportunity to express their views and enable FCAC to benefit from a wide range of perspectives.

This is the first in a series of consultations on guidelines that FCAC has developed to help banks comply with their obligations in the [Bank Act](#) and the new [Financial Consumer Protection Framework Regulations](#), which will come into force on June 30, 2022. Consultations on proposed guidelines on whistleblowing and appropriate products and services are also planned.

How to participate

FCAC invites all interested parties to submit their comments by email to FCAC.Consultation.ACFC@fcac-acfc.gc.ca.

FCAC will also accept written comments by mail or fax at:

Financial Consumer Agency of Canada
Supervision and Promotion Branch
427 Laurier Avenue West, 6th floor
Ottawa, ON K1R 1B9

Fax: 613-941-1436

FCAC may wish to quote from or summarize your submission in its public documents and post all or part of it on Canada.ca. We may revise submissions to remove sensitive or identifying information. If you would prefer that FCAC withhold all or part of your comments from its public documents, please indicate this clearly in your submission.

All comments received by FCAC will be subject to the [Access to Information Act](#) and [Privacy Act](#), and may be disclosed in accordance with the law.

Who is this consultation for

The consultation is primarily intended for the financial industry and stakeholders with an interest in consumer protection. Interested members of the public are also invited to participate.

Background

In 2017 and 2018, 2 FCAC reports highlighted key areas where legislation and regulations could better protect financial consumers and strengthen regulatory oversight of banks. The first was an assessment of best practices in provincial, territorial and international consumer protection regimes in the [Report on Best Practices in Financial Consumer Protection](#). The second was a review of bank sales practices in the [Domestic Bank Retail Sales Practices Review](#).

To address the issues raised in these reports, the federal government introduced legislative amendments to the *Bank Act* in 2018 to create what is referred to as the FCPF. The FCPF contains new or enhanced requirements for complaint-handling procedures in the banking sector. The recently published *Financial Consumer Protection Framework Regulations* add detail and specificity to certain legislative obligations, including some complaint-handling provisions.

In 2019, FCAC conducted its [Industry Review: Bank Complaint-Handling Procedures](#) to assess the effectiveness, accessibility and timeliness of complaint-handling in the Canadian banking system. Findings from that report, which was published in 2020, were used to develop the proposed Guideline.

Proposed guideline

FCAC is seeking comments and feedback on the following document:

[Proposed Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks](#)

The proposed Guideline sets out FCAC's expectations with respect to banks and authorized foreign banks' implementation of, and compliance with, the new complaint-handling provisions in the *Bank Act* and the *Financial Consumer Protection Framework Regulations*, which will come into force June 30, 2022.

The new legislative and regulatory requirements incorporate key elements of the existing financial consumer protection rules and introduce new or enhanced measures for complaint handling. They require banks to:

- establish complaint-handling policies and procedures that satisfy the Commissioner of FCAC
- deal with each complaint within 56 days following the day it is received

- designate an officer or employee in Canada to implement complaint-handling policies and procedures
- designate officer(s) or employee(s) in Canada to receive and deal with complaints
- refrain from using misleading terms with respect to complaint-handling procedures, including any term that suggests that the procedures, officers or employees are independent of the bank (e.g., “ombudsman”)
- create records of all complaints and retain them for 7 years
- report quarterly to FCAC regarding complaints that their designated employees or officers receive during the quarter

FCAC expects banks to review and revise their policies and procedures to ensure compliance with the applicable consumer provisions under the *Bank Act* and applicable regulations. In addition, banks should be guided by the principles and expectations detailed in the Guideline when establishing their complaint-handling policies and procedures.

Next steps

FCAC will consider all comments received and may modify the proposed Guideline, where appropriate. FCAC plans to publish an anonymized summary of comments on Canada.ca once the final version of the Guideline is released.

Related information

- [Part XII.2 of the *Bank Act*](#) (not yet in force)
- [Financial Consumer Protection Framework Regulations](#) (not yet in force)
- [Report on Best Practices in Financial Consumer Protection](#)
- [Domestic Bank Retail Sales Practices Review](#)
- [Industry Review: Bank Complaint-Handling Procedures](#)

Proposed Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks

From: [Financial Consumer Agency of Canada](#)

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I. Introduction

1. The Financial Consumer Agency of Canada (FCAC) has developed this Guideline – Complaint-Handling Procedures: Banks and Authorized Foreign Banks (Guideline) to set its expectations with respect to banks' implementation of the complaint-handling provisions in the *Bank Act* and the *Financial Consumer Protection Framework Regulations*.

2. Part XII.2 of the *Bank Act* establishes the provisions that apply to banks (including federal credit unions) and authorized foreign banks ("banks") for dealing with complaints.

3. FCAC encourages other federally regulated financial entities, such as trust and loan companies and insurance companies, to review this Guideline to develop and improve their policies and procedures.

4. A bank is responsible for ensuring it meets the requirements established in the *Bank Act* and that its complaint-handling policies and procedures are satisfactory to the Commissioner. [Footnote1](#)

5. A bank, and any parties subject to the requirements in s.627.15 of the *Bank Act* ("third parties"), must ensure that consumers have access to the bank's complaint-handling policies and procedures.

6. FCAC recognizes that banks may tailor their complaint-handling policies and procedures to align with the nature, size and complexity of their business, distribution channels, and products and services.

7. This Guideline is not a substitute for legislation or regulations.

II. Key principles

8. A bank's Senior management and the committee of the board responsible for the bank's compliance with consumer provisions should oversee the establishment and implementation of complaint-handling policies and procedures. In establishing those policies and procedures, a bank should be guided by the following principles:

i. Effectiveness

A bank's complaint-handling policies and procedures should be comprehensive and implemented to deal with consumer complaints in a consistent manner.

ii. Timeliness

A bank's complaint-handling policies and procedures should ensure the bank deals with complaints promptly and without unnecessary delays.

iii. Accessibility

A bank's complaint-handling policies and procedures should be easy for consumers to find, navigate and understand.

III. Effective complaint-handling policies and procedures

9. A bank seeking to incorporate, or to continue to operate as a bank, must provide a copy of its complaint-handling policies and procedures to FCAC within the timelines specified during the application process.

10. When a bank amends its complaint-handling policies and procedures, it should file a consolidated version of the amended complaint-handling policies and procedures with FCAC as soon as the amendments are approved internally.

Designating employees

11. A bank must designate 1 officer or employee ("employee") in Canada to be responsible for implementing its complaint-handling policies and procedures.

12. A bank must also designate 1 or more employees in Canada to receive and deal with complaints ^{Footnote2} ("designated employees"). It may designate any employee whom it deems appropriate.

13. The employee whom a bank designates to be responsible for implementing its complaint-handling policies and procedures and the designated employee who holds the most senior position for dealing with complaints (the "senior designated employee") can be the same person. ^{Footnote3} The title of the senior designated employee should reflect that this position deals with complaints on a regular basis.

14. All designated employees should have the experience, competencies and authority required to deal with complaints, and their titles should reflect the fact that they routinely receive and deal with complaints.

15. To be effective, a bank's complaint-handling policies and procedures should:

- establish clear roles, responsibilities and accountabilities for all employees involved in complaint-handling
- ensure designated employees have the experience, resources and authorities required to conduct the complaints process, including resolution

- provide for the monitoring of complaints, including those received by or in relation to third parties
- include mechanisms for soliciting regular feedback from consumers at all levels of the bank's complaint-handling process
- include a process for monitoring and testing policies and procedures and updating them as required
- ensure all complaints are dealt with in a consistent, fair and objective manner and provide redress as appropriate
- ensure that all employees who deal with complaints follow the same policies and procedures
- include analysis of complaint data to identify opportunities to better serve consumers and to strengthen compliance with market conduct obligations^{Footnote4}

Training

16. A bank's complaint-handling policies and procedures should include:

- initial and ongoing formal training on complaint-handling for all employees who deal with complaints
- a system for monitoring the status of employee training
- mechanisms to measure and test the effectiveness of training
- timelines and processes for reviewing training on a regular basis to ensure accuracy and for updating training in a timely fashion, as required, particularly in the event of:
 - a change in external complaints body
 - changes to legal requirements
 - changes to internal complaint-handling policies and procedures

17. A bank's training for designated employees should reflect their specific roles and responsibilities.

18. A bank should allocate sufficient financial, technological and operational resources to implement an effective complaint-handling training program.

Systemic issues

19. A bank's complaint-handling policies and procedures should include mechanisms for identifying and remedying any recurring or systemic problems by:

- addressing the underlying reason behind the complaint and taking corrective action, where appropriate
- tracking and analyzing the causes of individual complaints to identify the root causes that are common to various types of complaints
- considering whether such root causes may also affect other processes, products or services
- considering whether other consumers may have potentially suffered detriment from such root causes

Redress and reimbursement policies

20. A bank's complaint-handling policies and procedures should include a comprehensive redress policy that supports redress and reimbursement.

21. Complaint-handling policies and procedures should ensure that a bank can provide its consumers with redress and/or reimbursement for financial and non-financial complaints in a manner that is in keeping with, and based on, the circumstances of the complaints.

22. Where a recurring or systemic issue has been identified, complaint-handling policies and procedures should ensure that the bank provides redress and/or reimbursement to all affected consumers.

IV. Timely complaint-handling policies and procedures

23. A bank's complaint-handling policies and procedures should document the following potential outcomes when dealing with a complaint:

- a bank can deal with a complaint by resolving it to the satisfaction of the person who made it ("resolve")
- a bank can deal with a complaint by closing it if the bank is unable to resolve the complaint to the satisfaction of the person who made it ("close")

24. A bank's complaint-handling policies and procedures should include clear steps that ensure complaints are resolved or closed within the prescribed period.

25. A bank should review complaints in a manner that accounts for their nature and circumstances. It should do so as quickly as is appropriate, and with particular attention to the length of time a consumer spends at each step in the complaint-handling process.

Period for dealing with complaints

26. A bank should identify in its complaint-handling policies and procedures the timeframe for referring unresolved complaints to designated employees in a timely manner.

27. In order to be considered timely, the timeframe for referral should not exceed 14 calendar days from the date on which the complaint was first received.

28. Any employee may deal with complaints if they are the first point of contact between the bank and the consumer, regardless of the channel through which the complaint is received (for example, in branch, online or over the phone).

29. If an employee who is not designated to deal with complaints cannot resolve a complaint within the timeframe for referral identified in the bank's complaint-handling policies and procedures, they should refer the complaint to a designated employee.

30. If an employee who is not designated to deal with complaints requires input or assistance from a designated employee to do so, the complaint should be considered to have been referred to a designated employee. Therefore, the bank must report it to FCAC. [Footnote5](#)

31. Once a complaint has been received by or referred to a designated employee, it should continue to be dealt with by a designated employee. However, this does not preclude the possibility of continued interactions between the consumer, the designated employee, and an employee that is not designated.

V. Accessible complaint-handling policies and procedures

32. A bank's complaint-handling policies and procedures for consumers should describe:

- how the consumer can complain to the bank through different channels
- the bank's process and the action(s) that will follow
- the consumer's right to submit a complaint to the external complaints body if:
 - the bank has exhausted the prescribed time period for dealing with the complaint or
 - the consumer is not satisfied with the resolution offered by the most senior designated officer or employee at the bank
- how to contact the external complaints body
- how to contact FCAC

33. 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 their complaint to the external complaints body.

Providing information to consumers

34. A bank should be able to demonstrate that it has taken appropriate steps to give consumers the information and documentation—such as contracts, agreements and records of correspondence—that they need to meet the requirements set out in the bank's complaint-handling policies and procedures.

35. A bank's complaint-handling policies and procedures should ensure that employees know and understand the bank's disclosure obligations to consumers under the *Bank Act*. [Footnote6](#)

36. The information that a bank provides on its website(s) annually (or in writing when responding to a request) should include:

- the number of complaints that its senior designated employee dealt with, including the number of complaints resolved or closed
- the average length of time the bank took to deal with those complaints, from first interactions with the consumer to the date the complaint was resolved or closed
- the products or services to which the complaints related
- a description of the nature of the complaints, beyond the related product or service information contained in the classification
- the number of resolved complaints

37. The information a bank provides to consumers about its complaint-handling policies and procedures must be accurate and use language that is clear, simple and not misleading.

Acknowledging complaints

38. A bank should acknowledge the consumer's complaint without delay, in writing, ^{Footnote7} regardless of the channel through which it was received (for example, in branch, online or over the phone).

39. A bank can acknowledge the complaint electronically if the complaint was sent that way or if the consumer has consented to receive electronic documents.

40. A bank should document and track complaints to a final decision and provide consumers with comprehensive and up-to-date information in a timely manner upon request.

Dealing with complaints when the consumer has not provided their name

41. When a bank receives a complaint from a consumer who has not provided their name (for example, a complaint submitted through social media using a nondescript handle), the bank should respond and provide the consumer with the opportunity to access the bank's complaint-handling policies and procedures. If that consumer then decides to provide their identity, the bank should deal with the complaint according to the complaint-handling policies and procedures.

42. When a bank provides its complaint-handling policies and procedures to a consumer who has not provided their name, and the consumer still does not reveal their identity, the bank is not expected to refer the complaint to a designated employee. The bank should still create a record of the complaint with the information it has available.

Substantive written response

43. When a bank closes or resolves a complaint, the bank should provide a substantive written response to the consumer without delay.

44. The substantive written response should provide all the information a consumer needs to take the complaint to a bank's external complaints body, if they so choose, including:

- the date on which the bank received the complaint
- the fact that the prescribed time period has been reached and that the bank was unable to resolve the complaint within that period, if applicable
- the bank's final decision and offer, if any, in response to the complaint, as well as any relevant information about how the final decision was reached
- the method used to calculate redress (monetary and non-monetary), if offered
- the consumer's right to escalate the complaint to the external complaints body and how to contact the body

VI. Administrative processes and controls

45. A bank must report to FCAC every complaint a designated employee receives directly or has referred to them. This includes cases where the designated employee represents the first interaction between the bank and the consumer—whether or not the consumer has provided their name.

46. A bank must maintain a record of all the complaints it receives, including any in which the consumer is not named and any received by, or in relation to, a third-party.

47. A bank must report complaints to FCAC in accordance with FCAC's [Mandatory reporting guide for federally regulated financial institutions](#).

Footnote 1

Bank Act, 627.43(1)(a), Procedures for dealing with complaints.

[Return to footnote1Referrer](#)

Footnote 2

Bank Act, 627.43(1)(c), Procedures for dealing with complaints.

[Return to footnote2Referrer](#)

Footnote 3

Bank Act, 627.47(a), Annual information.

[Return to footnote3Referrer](#)

Footnote 4

Market conduct obligations include legislative provisions, codes of conduct and public commitments.

[Return to footnote4Referrer](#)

Footnote 5

Bank Act, 627.46, Report to the Commissioner.

[Return to footnote5Referrer](#)

Footnote 6

Bank Act, 627.43(4), Information regarding complaint procedure.

[Return to footnote6Referrer](#)

Footnote 7

Bank Act, 627.43(4)(a), Information regarding complaint procedure.