



**PRESENTATION BY JUDY Y CHANG,
FINANCIAL SERVICES OMBUDSMAN
AT THE LAUNCH OF THE OFFICE OF THE FINANCIAL SERVICES OMBUDSMAN
APRIL 29 2005
ON**

**THE ROLE AND OPERATIONS
OF THE
OFFICE OF THE FINANCIAL SERVICES OMBUDSMAN**

BACKGROUND

In May 2003, the Office of the Banking Services Ombudsman was established by the Central Bank in conjunction with the commercial banks to investigate complaints from individuals and small businesses with respect to the financial services provided by the commercial banks and their subsidiary licensed financial institutions.

Two years later, the Office of the Banking Services Ombudsman has now been expanded to incorporate the insurance companies and the services which they offer to the public. Today we launch the expanded office which is re-branded as the Office of the Financial Services Ombudsman (OFSO). The consideration by OFSO of complaints from both individuals and small businesses will therefore now include those which the members of the public may wish to lodge about the services received from the insurance industry.

Having had the experience of dealing with the banking complaints, we stand ready to work with you, the insurance companies, to deal with the insurance complaints. We are pleased that you have placed your confidence in us at the Office of the Financial Services Ombudsman. We will be calling upon you to help us to make the scheme a success. We may not be on the same side but we do have one thing in common, that of satisfying your customers – a happy customer is a repeat customer.

The terms of reference for the insurance companies and the operations of the scheme are similar to those signed by the commercial banks 2 years ago. Like the commercial banks, each insurance company must set up a dispute resolution centre headed by a senior person and provide the Office of the Financial Services Ombudsman with the name of the liaison officer with the OFSO. A request for the name of the liaison person to be provided is being prepared as we speak.

I will give a brief synopsis of the scheme as under the terms of agreement. We at the OFSO hold ourselves available to make similar presentations to sensitize the general public and those in the industry, both banks and insurance companies, of the procedures and operations of the Office.

AREAS COVERED BY THE AGREEMENT WITH THE INSURANCE COMPANIES

With the exception of group pension plans, the OFSO will consider complaints pertaining to:

- ✓ life insurance policies
- ✓ group life and health insurance
- ✓ individual annuity contracts
- ✓ property and casualty insurance
- ✓ motor insurance and
- ✓ third party property damage claims of \$25,000 or less under a motor policy.

AREAS NOT COVERED

The OFSO will not cover complaints that relate to the risk management policies of an institution and in particular, the OFSO will not consider complaints relating to:

- premium rates and underwriting decisions
- actuarial calculations
- surrender values and investment rates for life insurance policies
- matters related to marketing practices or unacceptable service, and
- third party injury claims arising out of a motor accident.

KEY FEATURES OF PROCESS

The OFSO is not a court of law and the process for treating with complaints is relatively informal. The Ombudsman's decision is based on four basic criteria:

- ◆ Overall fairness and equity
- ◆ General principles and best practices which are observed in both the banking and the insurance industries
- ◆ Industry standards and codes of conduct
- ◆ Due regard to the existing laws and regulations

In addition, we

- Treat all customers with respect and dignity
- Primarily investigative; advisers not necessary
- Without prejudice
- Confidential
- No legal rights surrendered; Customer is free to take his or her matter to court, at which time the Office closes its files.

JURISDICTION

As with the banking complaints, the OFSO will only consider insurance complaints in the instance where these issues have first been referred to the institution against which the complaint is being made.

In addition, the situation which would have given rise to the complaint must have occurred, or the complainant must have been made aware of such, on or after January 1 2004.

All complaints to the Office of the Financial Services Ombudsman must be submitted in writing and on the prescribed form which must be duly signed by the complainant and/or his authorized representative. Furthermore, the OFSO will not act on complaints about matters which are already before the courts of law.

THE PROCESS

The complaints process as it relates to insurance services will be administered in accordance with the agreement between the Central Bank of Trinidad and Tobago and those insurance companies that have agreed to participate in the Scheme. It is similar to that which currently obtains for complaints about banking services.

All insurance companies, with the exception of three, have signed the agreement. At present, there is no legislation governing the Scheme or to make it mandatory. It is entirely voluntary.

The Office of the Financial Services Ombudsman views this significant level of participation in the Scheme as an indication that the vast majority of the insurers in the industry are willing to work along with the OFSO and the Central Bank in ensuring the enhancement of the level of satisfaction and confidence of the public in the services provided by the participating companies.

It is my expectation that the success of the new arrangement will provide the necessary incentive for all the insurance companies to participate in the Scheme.

THE PROCESS ITSELF

RESOLUTION BY THE INSURANCE COMPANY

- Complaint must first be taken to the branch/agency of the insurance company at which the policy was initiated.
- If not settled satisfactorily there, the complaint is then referred to the dispute resolution centre, usually at the head office of the company.
- If the matter is not settled at the institution satisfactorily after 2 months, the insurance company has a duty to advise customer of recourse to services of Office of the Financial Services Ombudsman.

- Customer then has the option of taking the complaint to the Office of the Financial Services Ombudsman

PROCEDURES AT THE OFFICE OF THE OFFICE OF THE FINANCIAL SERVICES OMBUDSMAN

Stage I - Settlement by agreement

- Customer must take up matter with OFSO within 180 days of receiving notification of the services of the OFSO as stated above.
- Customer fills out complaint form and signs
 - if a representative to deal with matter, both representative and customer to sign;
 - **note** – complaint form includes an authority for bank or insurer to release confidential information to the OFSO. Such information will be kept confidential by the OFSO.
- The OFSO contacts insurance company and requests a copy of the relevant files pertaining to the complaint and seeks their views on the matter.
- The OFSO assesses/investigates the matter and holds discussions with the parties to try to reach an agreement.
- If agreed, customer signs acceptance form, sends to institution and advises Financial Services Ombudsman.
- Unlike the banking scheme, if an insurance matter is settled within 10 days from the receipt of a complaint from the OFSO, there is no charge to the insurance company; otherwise, if it is settled after 10 days in favour of the customer, the insurance company will be charged a fee of 10% of the sum settled, with a minimum of \$500 and a maximum of \$20,000.

Stage II – Recommendation by Ombudsman

- If no agreement is reached, either party may request the Ombudsman to make a recommendation for settlement or withdrawal of the complaint.
- Ombudsman gives one month's notice of intention to make recommendation during which time further representation may be made by either party.
- Recommendation may be accepted by the customer in full and final settlement of matter within one month of receipt of recommendation.
- Ombudsman sends acceptance form received from customer to financial institution.

- If accepted by financial institution, it complies with the terms of the recommendation and informs the Ombudsman of the settlement.
- If not accepted by the financial institution, it shall inform the Ombudsman within four (4) weeks of receipt of letter of acceptance.

Stage III – Award by Ombudsman

- If complaint is not settled by agreement or recommendation as above, the Ombudsman shall inform the parties of intention to make an award.
- Award shall not be for an amount greater than \$500,000.00.
- Award shall not be greater than the amount to compensate for direct loss or damage suffered by customer by reason of acts or omissions of the financial institution.
- Further representations may be made by either party within a period of 15 days of notice of making award.
- If the customer accepts the award in full and final settlement and sends the form of acceptance to OFSO within one month of the issue of the award, it is binding on the financial institution.
- The OFSO sends the acceptance to the financial institution.
- The financial institution shall comply within 15 days of receipt of letter of acceptance and advise the Ombudsman.
- The Ombudsman shall report non-compliance of award by any financial institution to the Central Bank.

INDEPENDENCE

The Office of the Financial Services Ombudsman reports directly to the Governor of the Central Bank. The remuneration of the Office of the Financial Services Ombudsman is funded fully by the Central Bank. In addition, the initial set-up costs of the Office are financed by the Central Bank.

FUNDING

The recurrent expenditure of the Office is funded by the participating institutions proportionately, in the ratio as agreed among the institutions.

COST TO THE CUSTOMERS

The cost of using the services of the office of the Financial Services Ombudsman is **FREE** to the customers of the participating financial institutions.

CONCLUSION

The Office of the Financial Services Ombudsman provides another avenue for aggrieved persons using the banking and insurance institutions to seek redress to their complaints and to resolve them through a mediation process rather than to resort to a court of law where the process can be lengthy and costly. It forces the financial institutions to be more diligent in their relationship with their customers as they seek to improve the level of service and reduce the number of complaints.

It protects consumers' rights as far as ensuring that contractual arrangements are maintained and customers are not taken advantage of, thereby enhancing the image of the financial services industry.

It also provides greater transparency, greater consumer confidence and satisfaction and prompt and independent resolution of problems. And ultimately, it is my firm belief that it will lead to greater credibility and confidence in the financial services sector.