INFO Network E-Bulletin
June 2016



**Hosting INFO 2018**

On 8 June, we emailed the senior representatives of all members about the hosting of INFO 2018. The Network Committee is inviting expressions of interest by 20 July. Can't find the email? The Secretariat can help: secretariat@networkfso.org

**Taking care of (INFO Network) business**

**2016 Annual General Meeting**

The 9th Annual General Meeting (AGM) of members of the International Network of Financial Services Ombudsman Schemes (INFO Network) will be held in Yerevan, Armenia, on Tuesday 20 September at 8am.

All members are encouraged to send a representative to take part in the AGM's important discussions among members on the Network's activities.

More information, including the AGM agenda and a call for expressions of interest in nominating for a position on the Network Committee, will be sent to your scheme's senior representative in early August.

If there is something in particular you would like to raise for discussion among members, please let the Secretariat know as early as possible: secretariat@networkfso.org



**Don't miss this once a year opportunity!**

If you are still thinking about coming to Yerevan for INFO 2016, please check the website, move from thinking to acting, and register now: [info2016.am/registration](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-j/)

If you have any questions, the friendly team from the Financial System Mediator Armenia will be more than happy to help:info@fsm.am

**Defining individuality**
**Going global**

Thank you to members who have already committed to INFO 2016 in September — as delegates, speakers, chairs and facilitators.

You will be taking part in a topical and varied program of professional development for financial services Ombudsmen:

* Cultural particularities influencing ombudsman schemes
* Finding fairness
* Mediation as a dispute resolution technique
* Media relations strategy in difficult situations
* Surviving social media attacks and trolling
* The power to make binding decisions
* Balancing transparency and confidentiality
* Jurisdictional limits and boundaries
* Analysing business process for optimisation
* Financing models - best practices and main principles
* Intermediaries - good or bad?
* Hot issues - banking/credit, insurance, investments

Full program in PDF[here](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-t/)

**Maybe ... or maybe not**

[**Does complainant anonymity lead to vexatious claims?**](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-d/)
Commentary on the UK Pensions Ombudsman's publication of adjudicators' opinions and formal ombudsman determinations on its website, with anonymity for complainants

[**How fair is obtaining consent via a pre-ticked, opt-out box?**](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-h/)
Privacy advocates in Australia have strongly criticised a large credit reporting company for using an online form as a marketing opportunity. By not noticing, so not un-ticking, the pre-ticked box at the end of the form, the customer inadvertently gave his consent for the use of his personal data for marketing purposes.

[**Problems looming for mortgage advisers?**](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-k/)
Prediction that upwards of 100,000 mis-selling complaints could be directed to financial and legal ombudsmen over the next five years — relating to mortgage contracts that were not explained properly by professional advisers (mortgage advisers and solicitors)

**Member views and news**



Clive Pillay, Ombudsman
Ombudsman for Banking Services
South Africa

Regulatory developments in South Africa

There are a number of regulatory developments in South Africa which will undoubtedlyhave a profound and far-reaching impact in the regulation of financial Ombudsman Schemes. Firstly, a Financial Sector Regulation Bill (FSRB) will be enacted. Principally, the Bill entails establishing the Twin-Peaks model of financial regulation with two regulators. Secondly, a Conduct of Financial Institutions Bill (CoFI) will provide for a comprehensive legal framework under which the Financial Sector Conduct Authority (FSCA) will operate.

**Background**

**Global Financial Crisis**
It is said that one of the causes of the global financial crisis (2007 – 2009) was inadequate or improper regulation and supervision of the Financial Sector. The global financial crisis spurred all major economies to reform their regulatory systems in the aftermath. In the UK the Financial Services Authority (FSA) devised a set of banking regulations whilst the USA enacted the Dodd-Frank Act to revamp the regulations of financial services. The Scandinavian countries also consolidated their regulatory agencies. After the dust of the global financial crisis began to settle, there was a global shift away from the integrated (single-regulator) model towards the Twin-Peaks model. The UK, which in May 1999, had opted for a single integrated regulator, in June 2010 committed itself to establishing a Twin-Peaks structure.

**South Africa**

**Evolution of Financial Regulation**
The South African financial regulatory and supervisory system has historically evolved through almost all the stages of the extant regulatory structures. In 1987 the de Kock Commission observed that over-regulation existed in the banking sector making it inefficient and uncompetitive and recommended functional regulation and risk-weighted equity rules. In the 1990s the regulatory structure transformed itself into a partially integrated system whose main tenet entailed the central bank regulating the banking sector and a multi-sector regulatory approach for other non-banking financial services. In 1993 the Melamet Commission recommended that South Africa adopt a unified regulatory approach.

**The Twin-Peaks Model of Financial Regulation**
In February 2011 the South African Government issued a National Treasury Policy Document proposing the strengthening of the financial regulatory system. The main policy thrust was the adoption of the Twin-Peaks model of financial regulation in South Africa. In February 2013 a further document was issued containing detailed proposals on the implementation of the Twin-Peaks model.

**Financial Sector Regulation Bill (FSRB)**
To give effect to the Twin-Peaks model, the Financial Sector Regulation Bill (FSRB), was tabled in the South African Parliament on the 27th October 2015. It is stated that the Twin-Peaks system is a comprehensive and complete system for regulating the financial sector. The tabling of the Bill was the first step in the process of implementing the Twin-Peaks system. Under the Twin-Peaks model, two regulators will be established — a prudential authority within the South African Reserve Bank which will supervise the safety and soundness of financial institutions and a new Financial Sector Conduct Authority (FSCA), which will supervise how financial services firms conduct their business and treat customers. The Twin-Peaks structure is aimed at harmonising SA’s fragmented financial regulatory landscape.

**The Conduct of Financial Institutions Bill (CoFI)**
The first draft of the CoFI Bill is expected to be published for comment at the end of 2016. The Bill provides a comprehensive legal framework under which the FSCA will operate. The intention is that the CoFI Bill will be a single piece of market conduct law, applicable to the entire financial sector. All conduct aspects of existing sectoral laws will therefore be repealed. In essence this means that the existing law itself will be repealed and replaced.  The CoFI Bill is aimed at minimising regulatory gaps and overlaps, and allowing for strengthened regulation.

**The Money Bill**
In terms of Section 77(1) of the South African Constitution, a money bill is a bill that appropriates money or imposes taxes, levies or duties. A money bill may not deal with any other matter except a subordinate matter incidental to the appropriation of money or the imposition of taxes, levies or duties. The Money Bill will in essence set out the levy requirements to fund the new authorities established under Twin-Peaks.

**How the FSRB affects the Voluntary Ombuds Schemes**
The FSRB highlights policy considerations to improve the effectiveness of the Voluntary Ombud Schemes. Changes mooted to the Voluntary Ombud Schemes through the FSRB are interim measures. The Twin-Peaks overhaul therefore poses a direct operational challenge to the current Voluntary Ombud Schemes.

**The Process**
The process proposes certain models to replace the existing Voluntary Ombud Schemes.
These include:

**1.** Centralised Model
Establishing a Chief Ombud. The Chief Ombud will be established by law with jurisdiction over all complaints in the financial sector. This is the preferred model of the National Treasury (NT).

**2.** Hybrid Model with oversight of industry and statutory Ombuds
This model includes both industry and statutory Ombud schemes. The existing statutory Ombuds will be consolidated into flexible panels as part of the Ombud Council which includes the Chief Ombud. Industry schemes are encouraged to similarly consolidate.

**3.** Industry Ombuds with strong oversight by the Ombud Council
Industry schemes are established through industry initiatives, and will be subject to oversight by the Ombud Council including minimum standards for resolving disputes.

**The future**
National Treasury has made a firm decision to overhaul the Voluntary Ombud Schemes. Whatever structural changes the National Treasury ultimately decides to adopt, the Voluntary Ombud Schemes established through their industries, will no longer exist in their current guise. How, and to what extent the Voluntary Ombud Schemes’ landscape will change, it is too soon to say.



Sarah Bradley, Ombudsman and CEO
Ombudsman for Banking Services and Investments, Canada

Independent evaluation: recommendations for improvement and recognition of high standards and accomplishments

OBSI has released the [results of an independent evaluation](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-n/) of its operations and practices for investment-related complaints. Deborah Battell, former New Zealand Banking Ombudsman, led the evaluation and presented her findings separately to OBSI’s Board of Directors and to the Joint Regulators Committee, which includes representatives from the Canadian Securities Administrators (CSA), the Investment Industry Regulatory Organization of Canada, and the Mutual Fund Dealers Association of Canada.

The report finds that OBSI continues to fulfill its obligations to its stakeholders. Among its key conclusions were:

* OBSI meets the requirements of the Memorandum of Understanding with the CSA and has performed well within its current mandate: its decisions are fair and consistent with those made internationally; and with its loss calculation tools, its ability to determine fair amounts of compensation is world leading.
* OBSI has made exceptional progress since the previous independent review – the main improvements have been in governance, obtaining regulators’ confidence to expand its mandate, and eliminating the backlog of complaints.
* OBSI is unlike other comparable international financial sector ombudsmen in that it does not have the authority to bind firms to comply with its compensation recommendations.This drives its operating model and prevents it from fulfilling the fundamental role of an ombudsman, securing redress for all consumers who have been wronged.
* OBSI should be enabled to secure redress for consumers.
* OBSI should adopt a strategic approach to ombudsmanship, incentivizing staff to use the intelligence gained from cases to help avoid and reduce the incidence of complaints.

To read the report, [click here](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-p/).



Marielle Cohen-Branche
AMF Ombudsman
France

Case study:
Sale of unlisted shares held under an equity savings plan

Ownership of unlisted shares is allowed under an equity savings plan (Plan d’épargne en actions, or PEA), but this implies compliance with a number of specific rules, notably in the event of their sale.

Unlike listed shares, which are generally bought and sold following a market order, unlisted shares are usually traded on an over-the-counter basis. This means that in contrast with transactions recorded on the market, the account manager is not automatically informed of such trades. For this reason, investors acquiring unlisted shares under an equity savings plan commit to informing the plan’s manager of any transaction affecting such securities. It follows that in the event of sale or redemption, it is the investor's responsibility to inform their bank and, above all, to pay the receipts of that sale or redemption into their plan’s cash account.

[Read the Ombudsman's case study facts, the analysis, the recommendation](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-x/)



Shane Tregillis, Chief Ombudsman
Financial Ombudsman Service
Australia

Where family violence is entwined in the financial dispute

On 30 March, the Royal Commission into Family Violence report was tabled in the Victorian state parliament. This was a 13 month investigation into the causes and responses required to address family violence across government and community services, including health, law enforcement, and financial services. The Victorian Government accepted all of the recommendations of the Royal Commission.

The report describes the essential 'pillars to recovery' for victims of family violence: housing, financial security, and health and well-being. The Commission specifically referred to the role of FOS in resolving disputes, particularly in circumstances where family violence is entwined in the financial dispute. There are a number of specific recommendations relevant to FOS and the broader financial services sector.

FOS will be working with other Ombudsman schemes to improve the way we publicise our dispute resolution services to help victims of family violence resolve disputes with service providers. We are also working with the Australian Bankers’ Association to develop a family violence-specific industry guideline to help staff at Australia’s banks understand, identify and deal with economic abuse associated with family violence.

FOS will be engaging with consumer groups and the broader consumer and family violence advocacy sector on the issue of economic abuse. We are contributing to financial literacy education programs designed for victims of family violence, and looking to develop partnerships with specialist services providing support for people who are or have experienced family violence.

We are also addressing the recommendations internally with our staff. The FOS Access Working Group, an internal body that works toward improving the accessibility of our services, has developed a family violence guide, which has been distributed to all staff. The guide informs staff on how to identify and respond to instances of family violence relevant to a FOS dispute. We are enhancing our internal training programs to improve the ability of staff to identify family violence and the tactics used by perpetrators to transmit debt, financially disenfranchise victims, and exercise control through economic means.

FOS’s efforts in responding to this landmark Royal Commission report are being led by Dr June Smith, Lead Ombudsman Investments & Advice, and Jenny Peachey, Executive General Manager of Strategy & Policy.



Caroline Wayman
Chief Ombudsman and CEO
Financial Ombudsman Service, UK

everyday problems

One of the key challenges for any organisation is making sure the outside world understands how you fit in with people’s lives. It’s a challenge that extends to ombudsmen like us, who together help to resolve people’s problems in pretty much every area of life in the UK — from hospitals and local councils, to shopping and energy supplies.

I often talk about the central role played by financial services throughout people’s lives — whether they’re running a home or running a business. But if someone’s had trouble with their boiler, been let down by a wedding venue or broken down on the motorway, they might not automatically think of what’s happened as a *financial* problem. So they might not know that, in many cases, the *financial* ombudsman can help sort things out.

In our *annual review* — which we published in May — we explain what we do to help consumers and financial businesses understand our role in what they do every day. To give more insight, in our latest edition of *ombudsman news* we highlight the surprising breadth of the problems we see.

You can read the latest edition of *ombudsman news,*including case studies on some of the everyday problems we can help with,[on our website](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-q/)



Douglas Melville
Principal Ombudsman and Chief Executive
Channel Islands Financial Ombudsman

First reports released

News release [here](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-f/)
CIFO's first (2015) annual report [here](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-z/)
CIFO's first quarterly complaint numbers (for the first quarter of 2016) [here](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-v/)



Nicola Sladden, Banking Ombudsman
Banking Ombudsman Scheme
New Zealand

Latest issue of 'On Balance'

Bogus bank cheques
Protecting financial interests into older age
Case studies and more [here](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-s/)

**Food for thought**

[**Critics of the ombudsman system: understanding and engaging online citizen activists**](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-g/)
[University of Oxford: December 2015]
Paper concludes that many of the issues raised by the 'ombudsman watchers' touch upon important and widely recognised dilemmas for the ombudsman institution. It proposes that these matters are likely to continue to be controversial and, perhaps, require a clearer and more coherently developed position among the wider ombudsman community.

[**Defining consumer ombudsman schemes**](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-w/)
[Queen Margaret University Edinburgh: March 2016]
Report describes the key characteristics of consumer ombudsmen through comparison with other forms of dispute resolution and to situate consumer ombudsmen within the broader consumer protection landscape. It arrives at the view that the fundamentally hybrid nature of consumer ombudsmen, combined with broader developments in the ombudsman and consumer dispute resolution landscape, have led to a lack of clarity and confusion.

[**The Digital Economy: innovation, growth and social prosperity**](http://infonetwork.createsend1.com/t/t-l-dujymy-ilditultj-yd/)
[OECD: June 2016]
This month Ministers and stakeholders gathered in Mexico for an OECD Ministerial Meeting on the *Digital Economy: Innovation, Growth and Social Prosperity*. The aim was to move the digital agenda forward in four key policy areas — internet openness is high on policy agendas; digital trust needs to be strengthened; global connectivity is reaching an unprecedented scale, while jobs and skills are being radically transformed.

A monthly e-bulletin for INFO Network members

To keep you informed of INFO Network developments
To share Ombudsman news items
To point you to updated information on the INFO Network website
To contribute, email your links, news items, articles to the Secretariat at any time

