

Information



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Complaints Resolution: Policy Framework and Best Practices

Purpose

This guidance focuses on the topic of complaints resolution. It has two principal aims:

1. to present FSRA's Guiding Policy Framework on Complaints Resolution (the "Policy Framework")
2. to showcase select best practices that FSRA has identified through jurisdictional research

Scope

This guidance looks at how complaints against the following regulated entities are or could be addressed:

- corporate insurance agencies
- credit unions and caisses populaires
- insurance adjusters
- insurance agents
- insurance companies

- loan and trust corporations
- mortgage administrators
- mortgage agents
- mortgage brokerages
- mortgage brokers
- pension plan administrators
- employers of pension plan members
- pension plan sponsors
- pension fund trustees

This guidance will also be applied, with necessary adjustments made, to the financial planners (FP) and financial advisors (FA) sector and any other sectors for which FSRA gains regulatory responsibility.

Rationale and background

Complaints resolution is an important element of protecting the rights and interests of consumers, members, and pension plan beneficiaries¹. This guidance is designed to summarize FSRA's research progress on complaints resolution. While this guidance presents FSRA's Policy Framework and an overview of best practices, it does not introduce new complaint-handling requirements for the regulated sectors.

Information

This section includes the following sub-sections:

- [Introduction](#)

¹ FSRA recognizes that there are differences between pension plan beneficiaries and consumers in other sectors that FSRA regulates. However, for the purpose of this document, the term 'consumer' is used and is intended to also refer to pension plan beneficiaries where appropriate.

- [Guiding policy framework on complaints resolution](#)
- [Terminology and scope](#)
- [Best practices](#)
- [Conclusion and next steps](#)

Introduction

In its [FY2021-2022 Statement of Priorities](#), FSRA proposed the development of a complaints framework.² To support the realization of this key deliverable, FSRA conducted jurisdictional research on complaints resolution. This research, which included external stakeholder engagement, led to the development of the **Policy Framework**: a principles-based, cross-sectoral framework designed to guide FSRA's policy work on complaints resolution.

This document has two principal aims. The first aim is to present FSRA's Policy Framework (p. 5). The Policy Framework does not introduce new complaint-handling requirements for the regulated sectors. Rather, it will be used to guide FSRA's policy work. The second aim is to showcase select best practices that FSRA has identified through its research (pp. 7-18). These best practices led to and shaped the development of the Policy Framework.

The best practices discussed in this document come from a variety of international bodies and regulators. Three of the most prominent international bodies that address the topic of financial services complaints resolution are:

- the G20/Organisation for Economic Co-operation and Development (OECD) Task Force on Financial Consumer Protection
- the World Bank
- the International Network of Financial Services Ombudsman Schemes (INFO Network)

² FSRA, Proposed FY2021-22 Statement of Priorities, p. 12.

The work of these three entities will be evident in this document. In addition, the following regulators' policies and procedures have served as valuable resources in developing this document:

- Australian Securities and Investments Commission (ASIC)
- BC Financial Services Authority (BCFSA)
- Canadian Council of Insurance Regulators (CCIR)
- Central Bank of Ireland
- Financial Conduct Authority (FCA)
- Financial Consumer Agency of Canada (FCAC)
- Financial Markets Authority (FMA)
- Ontario Securities Commission (OSC)

FSRA acknowledges that this document does not address all aspects of the topic of complaints resolution. Accordingly, this document should not be understood as a comprehensive inventory of all practices. Rather, it is an exploration of select practices that merit regulatory understanding and consideration. Furthermore, the inclusion of a particular practice in this document does not mean that the practice exists or should necessarily exist in each of FSRA's regulated sectors.

As will be outlined further in the Conclusion and Next Steps, the Policy Framework will serve an important role during FY2022-23: namely, to guide a review of complaints resolution in each of FSRA's regulated sectors. FSRA will use the Policy Framework, and consider best practices (where appropriate), to assess the strengths and weaknesses of the current complaints resolution ecosystem. This review will allow FSRA to identify gaps and opportunities for improvement.



Guiding policy framework on complaints resolution

Vision: Consumers, members, and pension plan beneficiaries have access to an end-to-end complaints resolution process that resolves complaints in a fair, timely, transparent, and effective manner.

While the end-to-end complaints resolution process in each regulated sector varies depending on requirements set out in legislation, regulations, and FSRA rules and guidance, FSRA's vision is guided by the following consumer-focused principles:

- **accessible:** consumers, members, and pension plan beneficiaries have the information and support required to navigate the end-to-end process
- **fair:** consumers, members, and pension plan beneficiaries have their complaints assessed based on their merit, without bias, and in a consistent manner having regard to the nature of the issue
- **timely:** consumers, members, and pension plan beneficiaries have their complaints assessed within a reasonable timeframe and without unnecessary delays
- **transparent:** consumers, members, and pension plan beneficiaries have a clear understanding of the information used to assess their complaints, the status of their complaints, the basis for determinations, and the relevant next steps
- **effective:** consumers, members, and pension plan beneficiaries have their complaints addressed and, where warranted, receive redress

This focus on high-level features, as opposed to rigid requirements, supports FSRA's commitment to principles-based, outcomes-focused regulation, and recognizes the diversity of the sectors that FSRA regulates.

Terminology

A complaint is a statement of a consumer's dissatisfaction with the action, service, or product of a financial service provider or an authorized agent.

FSRA's role

FSRA's role in handling complaints made against industry participants is to determine the nature of the complaint, and when there is a breach of law, code of conduct or public commitment, take action to ensure compliance. FSRA does not provide or obtain redress for consumers except to the extent that enforced regulatory compliance results in redress. As the regulator, FSRA's focus is to ensure that regulated entities comply with their market conduct obligations, which include having adequate complaint-handling processes.

FSRA also monitors trends and identifies systemic regulatory issues. In fulfilling this regulatory role, FSRA determines the visibility required for complaints practices and data across the regulated sectors. Consumer complaints are a valuable source of information about potential market conduct issues.

FSRA also supports consumers, members, and pension plan beneficiaries of the regulated sectors by ensuring that they have clear and publicly accessible information about relevant complaint-handling mechanisms and the complaints system overall.

Terminology and scope

For the purpose of this document, FSRA adopts the G20/OECD definition of **complaint**: “a statement of a consumer’s dissatisfaction with the action, service or product of a financial services provider or an authorised agent.”³ This document does not distinguish between ‘complaints resolution’ and ‘dispute resolution’: both terms describe the process through which consumers have their complaints addressed.

The term **financial service provider** will be used to denote a wide range of entities and individuals who provide financial services. In this document, all of FSRA’s regulated entities are understood as financial service providers.

Moreover, as will soon be clear, the distinction between **internal dispute resolution** (IDR) and **external dispute resolution** (EDR) serves an important role in this document. These two terms are used as follows:

- **IDR**: a complaint-handling process that is offered through a financial service provider
- **EDR**: a complaint-handling process that is external to a financial service provider

In FSRA’s regulated sectors, the complaint-handling process offered through an insurer, credit union, mortgage brokerage, pension plan administrator, or loan and trust company constitutes a form of IDR. Moreover, the complaint-handling process offered through an external body, such as the General Insurance OmbudService (GIO), the OmbudService for Life and Health Insurance (OLHI), or the Ombudsman for Banking Services and Investments (OBSI), constitutes a form of EDR. In the pension sector, FSRA itself fills a type of limited EDR role when a complaint is based on or results from alleged regulatory non-compliance.

³ G20/OECD, “Update Report on the work to Support the Implementation of the G20 High-Level Principles on Financial Consumer Protection,” p. 18.

Best practices

This section presents nine best practices for financial complaints resolution. As noted in the Introduction, these best practices come from a variety of international bodies and regulators. While this review of best practices is not exhaustive, it provides a high-level overview of important topics and issues related to complaints resolution.

Best Practice #1: Complaints resolution is an element of consumer protection frameworks.

This practice is reflected in the literature on complaints resolution. For example, the G20 High-Level Principles on Financial Consumer Protection, which are the primary international standard for financial consumer protection frameworks, include a principle on complaints resolution.⁴ Similarly, the World Bank identifies complaints resolution as a vital element of consumer protection frameworks:

Core to an effective financial consumer protection framework is an accessible and efficient recourse mechanism that allows consumers both to know and to assert their rights to have their complaints addressed and resolved in a transparent and just way within a reasonable timeframe.⁵

In practice, many regulators include complaints resolution as a component of their consumer protection frameworks.

While this practice does not specify the *features* that a complaints resolution process should possess, it makes clear that complaints resolution is central to protecting consumers' rights and interests. This practice serves as the foundation for the other practices that follow.

Best Practice #2: Consumers have access to IDR through their financial service provider.

⁴ G20/OECD, "G20 High-Level Principles on Financial Consumer Protection," p. 7.

⁵ The World Bank, "Complaints Handling within Financial Service Providers," p. 1.

When a consumer has a complaint, the first step for them is to access their financial service provider's IDR process. The G20/OECD Task Force on Financial Consumer Protection states that "financial services providers and authorised agents should have in place internal mechanisms for complaint handling and redress."⁶ Furthermore, the World Bank writes:

The timely resolution of complaints, including provision of redress where warranted, should be a primary responsibility of FSPs [financial service providers]. An IDR mechanism is defined as a complaints handling function, unit, or dedicated team within an FSP. The IDR mechanism should be implemented with proper structure, policies, procedures, systems, and governance.⁷

In the 2017 review of the financial EDR framework in Australia, the review panel emphasized the importance of IDR:

Effective IDR benefits both firms and consumers. IDR is an important element of financial firms' overall relationship with their customers and is the primary avenue for aggrieved consumers to seek redress. Pressure on EDR is reduced when complaints are resolved directly between firms and their customers.⁸

The importance of IDR is reflected in practice: in many jurisdictions, regulators require financial service providers to make an IDR process available to consumers. That said, it is understood that small financial service providers and administrators in some sectors (e.g., mortgage brokering or pensions) will not have the resources to implement as robust an IDR process as will their larger counterparts.

Best Practice #3: IDR processes are required to have certain consumer-focused features.

⁶ G20/OECD, "G20 High-Level Principles on Financial Consumer Protection," p. 7.

⁷ The World Bank, "Complaints Handling within Financial Service Providers," p. 1.

⁸ Government of Australia, "Review of the financial system external dispute resolution and complaints framework," p. 189.

The mere existence of an IDR process does not guarantee the adequacy of that process. Strong IDR processes are characterized by certain consumer-focused features. The relevant features differ across regulatory models, but there is a high degree of convergence.

The G20/OECD Task Force on Financial Consumer Protection states that complaints resolution processes should be accessible, affordable, independent, fair, accountable, timely, and efficient.⁹ FCAC enumerates three guiding principles for IDR: effectiveness, efficiency, and accountability.¹⁰ ASIC notes the importance of “fair, timely and effective dispute resolution,” as well as other features—such as accessibility and responsiveness—that IDR should possess.¹¹ While these consumer-focused principles may be described in different terms, the underlying objectives are similar across many regulatory models.

It is worth noting that FSRA’s Policy Framework includes best-practice principles that are often identified as important principles for IDR (and EDR). The five principles are accessibility, fairness, timeliness, transparency, and effectiveness.

Best Practice #4: Consumers have access to EDR when their complaint cannot be adequately resolved through IDR.

If a consumer’s complaint cannot be adequately resolved through the relevant IDR process, the next step for the consumer is EDR.¹² As stated by the G20/OECD Task Force on Financial Consumer Protection: “Recourse to an independent redress process should be available to address complaints that are not efficiently resolved via the financial services providers and authorised agents internal dispute resolution mechanisms.”¹³ The INFO Network is dedicated to the advancement of financial services EDR. According to the INFO Network:

⁹ G20/OECD, “G20 High-Level Principles on Financial Consumer Protection,” p. 7.

¹⁰ FCAC, *CG-12 Internal dispute resolution*.

¹¹ ASIC, *Regulatory Guide 271: Internal dispute resolution*, pp. 10, 38, and 42.

¹² The topic of EDR funding is not fully explored in this document. However, the issue of cost-effectiveness for industry is an important consideration when contemplating the appropriate approach to EDR. For example, it is common for financial service providers’ EDR membership fees to depend on the size of the provider under consideration.

¹³ G20/OECD, “G20 High-Level Principles on Financial Consumer Protection,” p. 7.

A financial services ombudsman scheme has a key role in helping to underpin consumer confidence in financial services. It benefits consumers, financial services businesses, financial services regulators, the state and the national economy. It resolves individual complaints against financial services businesses more quickly, more cheaply and less formally than the courts—as well as proactively feeding back information about its work in order to help make things better for the future.¹⁴

This practice is standard across many jurisdictions. For example, ASIC requires financial firms to belong to the Australian Financial Complaints Authority (AFCA).¹⁵ AFCA is the sole EDR body to resolve financial complaints in Australia. In the United Kingdom, the Financial Ombudsman Service, an independent public body with statutory powers, is a free service that settles complaints between consumers and businesses that provide financial services.¹⁶ In New Zealand, all financial service providers with retail clients are required to belong to an EDR scheme. There are four approved schemes in New Zealand: the Banking Ombudsman Scheme (BOS), the Insurance and Financial Services Ombudsman Scheme (IFSO), Financial Services Complaints Limited (FSCL), and Financial Dispute Resolution Service (FDRS).¹⁷ In the Canadian context, banks and federally regulated credit unions are required to belong to an approved EDR body.¹⁸ There are currently two EDR bodies: ADR Chambers Banking Ombuds Office (ADRBO) and OBSI. Similarly, federally regulated insurance companies that fall under the purview of the Insurance Companies Act are required to become members of an independent “complaints body” if there is no provincial law that mandates membership in a complaints organization.¹⁹ In Ontario, there are two EDR bodies for insurance: GIO and OLHI.

It is important to note, however, that EDR can take different forms. In fact, the G20/OECD Task Force on Financial Consumer Protection notes different models that policymakers might contemplate:

¹⁴ The INFO Network, “Guide to setting up a Financial Services Ombudsman Scheme,” p. 7.

¹⁵ ASIC, *Regulatory Guide 267: Oversight of the Australian Financial Complaints Authority*.

¹⁶ Part XVI of the *Financial Services and Markets Act 2000* (UK).

¹⁷ FMA, “Frequently asked questions”: <https://www.fma.govt.nz/contact/faqs/>.

¹⁸ Subsection 455.01 (2) of the *Bank Act*.

¹⁹ Subsection 486.1 of the *Insurance Companies Act*.

When establishing an [alternative dispute resolution] mechanism for resolving disputes with financial services providers, policy makers consider a range of possible models e.g. independent ombudsman services, ADR services offered by regulators, conciliation schemes, financial dispute resolution centres, industry associations or industry led schemes that reflect specific jurisdictional legal structures and circumstances and respect specific requirements when provided for by law.²⁰

Different legislative and regulatory frameworks for financial services enable different types of EDR. For example, some EDR bodies are not-for-profit organizations (e.g., OBSI in Canada), others are for-profit (e.g., ADRBO in Canada), and others are public bodies (e.g., the Financial Services and Pensions Ombudsman (FSPO) in Ireland). In some cases, an EDR role is built into the regulator's legislative mandate. For example, the Autorité des marchés financiers (AMF) in Quebec has a mandate that includes "giving consumers access to dispute-resolution services."²¹

Relatedly, the appropriate model for EDR may depend on the sector under consideration. For example, in the context of private pension systems, the International Organisation of Pension Supervisors (IOPS) has noted that pension regulators could handle complaints, especially in jurisdictions with a small number of pension funds or administrators.²²

Best Practice #5: EDR mechanisms are independent from financial service providers and consumer groups.

A key feature of EDR mechanisms is independence from financial service providers and consumer groups. Independence is important for ensuring that EDR is a forum through which disputes between consumers and financial service providers can be resolved in an impartial manner. The property of independence is noted by the G20/OECD Task Force on Financial Consumer Protection.²³ The World Bank has also emphasized the importance of independence: "The principle of independence is particularly important to ensure that consumers and financial

²⁰ G20/OECD, "Update Report on the work to Support the Implementation of the G20 High-Level Principles on Financial Consumer Protection," p. 22.

²¹ Section 4 of the *Act respecting the regulation of the financial sector*.

²² IOPS, "Good Practices on the Role of Pension Supervisory Authorities in Consumer Protection Related to Private Pension Systems," p. 9.

²³ G20/OECD, "Update Report on the work to Support the Implementation of the G20 High-Level Principles on Financial Consumer Protection," p. 21.

services providers have confidence in ADR mechanisms.”²⁴ Moreover, in its guide on fundamental approaches for financial EDR bodies, the INFO Network states: “The financial services ombudsman schemes should be established so that it is visibly and demonstrably independent of both the financial services industry and consumer bodies.”²⁵ In fact, one of the INFO Network’s six fundamental principles for ombudsman schemes is “independence, to secure impartiality.”²⁶

Crucially, independence is regarded as an important property for EDR bodies to instantiate in practice. In Australia, AFCA is required by legislation to operate in an independent manner. In Ireland, the ombudsman of the FSPO “shall be independent in the performance of his or her functions.”²⁷ Similarly, the four EDR bodies in New Zealand are all governed by the principle of independence.²⁸ In the Canadian context, federally regulated EDR bodies must be independent.²⁹

This discussion raises an important question: what conditions must be satisfied for an EDR body to be independent? A full answer to this question is beyond the scope of this document, but some commonly cited conditions pertain to:

- the EDR body’s governance model (e.g., board of directors)
- the head decision-maker’s appointment, term conditions, salary structure, relationship to industry, powers, etc
- the EDR body’s funding model
- the EDR body’s establishing documents (e.g., legislation that enshrines the EDR body’s independence)

²⁴ The World Bank, “Good Practices for Financial Consumer Protection,” p. 52.

²⁵ The INFO Network, “Effective approaches to fundamental principles,” p. 2.

²⁶ Ibid.

²⁷ Subsection 12(8) of the *Financial Services and Pensions Ombudsman Act 2017*.

²⁸ Subsection 52(2) of the *Financial Service Providers (Registration and Dispute Resolution) Act 2008*.

²⁹ Section 5 of *Complaints (Banks, Authorized Foreign Banks and External Complaints Bodies) Regulations*.

While there may be disagreement about the specific conditions that must be satisfied for an EDR body to be independent, there is—nonetheless—widespread agreement that the principle of independence is central to EDR.

Best Practice #6: EDR mechanisms have the ability to reliably secure redress for consumers.

If an EDR mechanism is functioning adequately, it is able to secure redress (e.g., compensation) for consumers (where warranted).³⁰ This means that when an EDR body makes a decision in favour of a consumer, the financial service provider complies with the decision. Failing to secure redress for consumers undermines the value proposition of an EDR body—namely, to serve as an out-of-court redress mechanism.³¹

One approach to securing redress is through binding authority. If an EDR body has binding authority, then its decisions are binding on financial service providers. EDR bodies in many jurisdictions have binding authority, including Australia (AFCA), Ireland (FSPO), and the United Kingdom (Financial Ombudsman Service).

However, some EDR bodies attempt to secure redress for consumers through non-binding recommendations. In the Canadian landscape, three EDR bodies that make non-binding recommendations are GIO, OBSI, and OLHI. If an EDR body makes a non-binding recommendation, then its recommendation can be refused by the financial service provider. To achieve compliance, EDR bodies may couple non-binding recommendations with other tactics. For example, EDR bodies may use the name-and-shame approach, where the EDR body publicly announces the name of a financial service provider that refuses to accept the non-binding recommendation. This is intended to deter financial service providers from rejecting non-binding recommendations.

Of course, not all EDR models are equally capable of securing redress for consumers. Some commentators argue that binding authority is better than non-binding recommendations.

³⁰ The INFO Network, “Guide to setting up a Financial Services Ombudsman Scheme,” pp. 41-42.

³¹ Thomas, David and Francis Frizon (2012). *Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman*, p. 7.

However, there are other design features that policymakers must consider when contemplating the value of binding authority. For example, if binding authority necessitates the existence of an appeals process, the amount of time it takes to resolve complaints increases and the timeliness of the EDR process may be undermined. While this is just one example, policymakers must consider the trade-offs required to ensure that an EDR body reliably secures redress.

Best Practice #7: There is only one EDR body for a particular financial services sector.

When there is more than one EDR body for a particular sector, they end up competing for the membership of financial service providers. This competition among EDR bodies can generate problematic outcomes, including (i) undermining EDR independence, (ii) decreasing consumer confidence, (iii) creating complex pathways for consumers, and (iv) causing fragmentation and inefficiencies in the EDR system.

A number of international organizations have criticized the practice of having multiple EDR bodies for a single sector. Consider the following statement from a World Bank report:

A few countries have the unusual idea of ‘competitive’ ombudsmen, where – subject to specified minimum standards – the financial industry is able to choose between two or more competing financial ombudsmen. Such a choice presents severe risks to independence and impartiality – because financial businesses may favour the ombudsman they consider likely to give businesses the best deal.³²

Similarly, the INFO Network has stated:

There are potential risks with 'competing' financial services ombudsman schemes:

- Complainants may be unsure which financial services business is covered by which financial services ombudsman scheme. And complainants may have less

³² Thomas, David and Francis Frizon (2012). *Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman*, p. 38.

confidence in independence and impartiality if it is the financial services business that has the choice of which financial services ombudsman scheme to use.

- Unscrupulous financial services businesses might try to exercise influence over the financial services ombudsman schemes—by favouring the one that they like best and/or by threatening to undermine one scheme financially by threatening to move to another.³³

This issue is not merely theoretical—in fact, there is currently an active discussion in Canada regarding the structure of the EDR system for banks. In FCAC’s 2020 industry review of the two EDR bodies in the banking sector (ADRBO and OBSI), it raised concerns with the ‘multiple-ECB model’.³⁴ As stated by Finance Canada: “The FCAC has suggested that Canada’s multiple ECB model may undermine consumers’ trust and confidence, reduce accessibility, add complexity and inefficiency, and complicate regulatory supervision.”³⁵ In summer 2021, Finance Canada held a public consultation on strengthening Canada’s EDR system in the banking sector and welcomed feedback on how the deficiencies related to the current EDR system could be improved.

There is a distinct but related question regarding the appropriate number of EDR bodies for the entire financial services system within a particular jurisdiction. While this issue will not be explored in this document, it is worth noting that some jurisdictions—such as Australia (AFCA) and Ireland (FSPO)—have recently moved to a model in which there is only one EDR body for all financial services sectors. Of course, in Canada, jurisdictional rules often result in multiple EDR bodies based on provincial (and federal) boundaries or based on overlapping authorities and forums.

Best Practice #8: Regulators have access to complaints data from their regulated sectors and use the data to strengthen their regulatory efforts.

This practice does not directly impact a consumer’s interaction with the complaints resolution process. However, identifying systemic issues and consumers risks is still an important practice

³³ INFO Network, “Guide to setting up a Financial Services Ombudsman Scheme,” p. 21.

³⁴ FCAC, “Industry Review: The Operations of External Complaints Bodies.”

³⁵ Finance Canada, “Consultation Document: Strengthening Canada’s External Complaint Handling System.”

for complaints resolution and serves a valuable consumer protection function. The G20/OECD Task Force on Financial Consumer Protection makes this linkage clear:

Analysing consumer complaints data...provides information to regulators and supervisors on how to improve market conduct, and helps regulators to identify consumer risks, regulatory gaps, systemic irregularities in the market place, and to assess the effectiveness of regulatory measures and compliance with laws and regulations.³⁶

Regulators can collect and use different types of complaints data: IDR data, EDR data, and data based on complaints received directly from consumers. In Australia, ASIC receives IDR data from firms and EDR data from AFCA.³⁷ In fact, ASIC has recently undertaken extensive work to improve its IDR data reporting.³⁸

The FCA also receives and analyzes complaints data from its regulated entities and the Financial Ombudsman Service. Complaints data from the former is published on the FCA's website.³⁹ The Memorandum of Understanding (MOU) between the FCA and the Financial Ombudsman Service sets out the information that can be shared between the two entities. As stated in the MOU, the information that the Financial Ombudsman Service shares with the FCA includes:⁴⁰

- information the FCA reasonably requires to enable it to discharge its statutory obligations with regard to Financial Ombudsman Service
- regular information about the number and types of complaints handled

³⁶ G20/OECD, "Update Report on the work to Support the Implementation of the G20 High-Level Principles on Financial Consumer Protection," p. 22.

³⁷ ASIC, *Regulatory Guide 267: Oversight of the Australian Financial Complaints Authority*, pp. 22-23.

³⁸ In July 2021, ASIC released two new IDR reporting documents: a data dictionary and a data glossary. As stated on ASIC's website: "The data dictionary sets out the information that financial firms will be required to collect and report to ASIC. The data glossary provides explanations about the key terms in the data dictionary." See: ASIC, "21-177MR ASIC publishes Internal Dispute Resolution data dictionary and glossary ahead of pilot": <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-177mr-asic-publishes-internal-dispute-resolution-data-dictionary-and-glossary-ahead-of-pilot/>.

³⁹ FCA, "Complaints data": <https://www.fca.org.uk/data/complaints-data>.

⁴⁰ Memorandum of Understanding between the Financial Conduct Authority (the FCA) and the scheme operator, the Financial Ombudsman Service Limited, p. 5.

- if concerns arise, information about: serious shortcomings in a firm’s complaint-handling; concerns about the fitness and propriety of a firm or approved person; or other issues that may require action by the FCA in accordance with its statutory objectives
- if the FCA requests it for actual or contemplated regulatory action, information that is relevant to the discharge of the FCA’s statutory functions

The specific information collected and used varies between regulators. The relevant consideration here is that access to complaints data can enhance a regulator’s ability to receive advance warning of and respond to systemic issues in its regulated sectors.

Best Practice #9: Regulators serve an oversight role in the complaints resolution process.

While this practice is implicit in some of the other practices above, it is valuable to consider it as a stand-alone practice. In many jurisdictions, the regulator serves an oversight function to ensure that the complaints resolution process operates adequately. In those jurisdictions, the regulator can be understood as sitting outside of the complaints resolution process but overseeing its operation. ASIC, for instance, writes:

Within this framework, we are responsible for overseeing the effective operation of the dispute resolution system, which includes setting the standards and requirements for financial firms’ IDR processes and oversight of AFCA.⁴¹

The regulator ensures that other entities—such as financial service providers and EDR bodies—are well-positioned to resolve complaints.

Given the regulator’s oversight function, it does not itself address individual complaints. ASIC and FCAC, for example, do not get involved with individual complaints or offer redress. On FCAC’s website, it clearly explains the boundaries of its role: “Please keep in mind that FCAC

⁴¹ ASIC, *Regulatory Guide 271: Internal dispute resolution*, p. 9.

doesn't provide redress or compensation and can't get involved in individual disputes."⁴² However, the fact that these regulators do not resolve individual complaints does not mean that they do not accept complaints. Instead, when these regulators receive consumer complaints, they investigate them to assess whether a financial service provider has complied with its governing statute, including its market conduct obligations. Thus, consumer complaints are important for identifying regulatory issues (e.g., non-compliance with legislation and systemic trends in a particular sector).

This distinction between the role of the regulator and the role of redress-awarding entities (e.g., EDR bodies) is articulated by the INFO Network:

The role of the financial services ombudsman scheme is to provide individual redress for complainants. It does not make general rules for the financial services industry or punish individual financial services businesses. These are the roles of the financial services regulator. But, equally, the financial services regulator should leave individual redress to the financial services ombudsman scheme.⁴³

As the models above demonstrate, the regulator can serve an important function in the complaints resolution ecosystem without addressing individual complaints.

Conclusion and next steps

This document has had two principal aims. The first aim was to present FSRA's Policy Framework. The second aim was to showcase select best practices that FSRA has identified through its research. As noted in the Introduction, the Policy Framework is a principles-based, cross-sectoral framework designed to guide FSRA's policy work on complaints resolution. The Policy Framework does not introduce new complaint-handling requirements for the regulated sectors.

It is important to emphasize that the jurisdictions explored in this document have different legislative and regulatory frameworks for complaints resolution. As a result, the best practices

⁴² FCAC, "How to make a complaint to a financial institution": <https://www.canada.ca/en/financial-consumer-agency/services/complaints/file-complaint-financial-institution.html>.

⁴³ The INFO Network, "Guide to setting up a Financial Services Ombudsman Scheme," p. 33.

enumerated in this document take different forms in different contexts. For example, a particular jurisdiction's EDR system can differ along numerous dimensions: the number of EDR bodies, an EDR body's relationship to the government or regulator, the EDR governance model, the EDR funding model, the EDR body's mechanism for securing redress, etc. While these best practices serve as an informative starting point for approaching the topic of complaints resolution, they do not answer all questions that policymakers might have about complaints resolution. The appropriate model for complaints resolution is dependent on the legislative and regulatory context under consideration.

Finally, as stated in the Introduction, the inclusion of a particular practice in this document does not mean that the practice exists or should necessarily exist in each of FSRA's regulated sectors. However, these best practices have informed—and will continue to inform—FSRA's policy work on and approach to complaints resolution.

Next steps: review of complaints resolution

FSRA's upcoming work will build on the development of the Policy Framework. In its [FY2022-2023 Statement of Priorities](#), FSRA proposes strengthening its baseline understanding of the current complaints resolution system.⁴⁴ This includes better understanding consumer experiences. The Policy Framework will serve a foundational role in the FY2022-23 review. The principles enumerated in the Policy Framework—accessibility, fairness, timeliness, transparency, and effectiveness—will help guide FSRA's review of the current state. More specifically, FSRA will explore the extent to which these best-practice principles are currently instantiated in complaints resolution systems across the regulated sectors. It is important to emphasize that this next phase of work is about better understanding the strengths and weaknesses of the current state.

FSRA will take a sector-specific approach to this work and welcomes feedback (see **Appendix: Discussion Questions**) on particular topics or issues that should be explored. FSRA's preliminary plan for the review includes investigating the following:

⁴⁴ FSRA, Proposed FY2022-23 Statement of Priorities, p. 8.

FY2022-23 review of complaints resolution

| Groups | Guiding questions | Potential activities |
|--------------------|---|--|
| Complainants | <ul style="list-style-type: none"> to what extent do complainants experience a complaints resolution process that is accessible, fair, timely, transparent, and effective? | <ul style="list-style-type: none"> complainant survey complainant interviews |
| Regulated entities | <ul style="list-style-type: none"> to what extent do regulated entities' complaint-handling practices align with the principles? | <ul style="list-style-type: none"> supervisory reviews industry surveys |
| FSRA | <ul style="list-style-type: none"> to what extent does FSRA currently fulfill its role in the complaints resolution ecosystem? does FSRA's legislative and regulatory framework enable FSRA to promote the principles in the regulated sectors? | <ul style="list-style-type: none"> internal review stakeholder engagement |

This work will be an important next step for FSRA. Through a strengthened understanding of the current state, FSRA will be better positioned to identify opportunities for improving complaints resolution across the regulated sectors. FSRA's findings in FY2022-23 will shape the appropriate longer-term steps for its work on complaints resolution.

Effective date and future review

This Guidance is effective on December 22, 2021 and will be reviewed no later than December 22, 2024.

About this guidance

This document is consistent with [FSRA's Guidance Framework](#). As Information guidance, it describes FSRA's views on certain topics without creating new compliance obligations for regulated persons.

Appendix: discussion questions

FSRA [welcomes stakeholder feedback](#) on the following discussion questions by February 15, 2022:

1. **best practices:** are there additional best practices that FSRA should explore or consider in the context of its work on complaints resolution?
2. **policy framework:** does the Policy Framework include the appropriate principles? Are there any other principles that merit consideration in FSRA's Policy Framework?
3. **FY2022-23 work:** are there specific topics or issues that FSRA should explore during its upcoming work to strengthen its understanding of the current complaints resolution system?
4. **general feedback:** are there other topics, issues, or themes that FSRA should consider in the context of its work on complaints resolution?