

**RESPONSE TO FEEDBACK RECEIVED – CONSULTATION ON THE FINANCIAL INDUSTRY DISPUTES  
RESOLUTION CENTRE (FIDReC)**

ISSUE	FEEDBACK	INTEGRATION STEERING COMMITTEE’S RESPONSE
<b>GOVERNANCE</b>		
<b>Representation</b>	<p>Several respondents recommended expanding the number of industry directors to ensure the concerns of their industry would be adequately reflected at the Board level. Suggestions included</p> <ul style="list-style-type: none"> <li>• Having a separate life and general insurance industry director</li> <li>• Having a director to represent the stock broking industry</li> <li>• Having a director to represent the financial advisory industry</li> <li>• Increasing the number of directors for sectors providing a larger share of contributions towards funding</li> </ul>	<p>We recognize the concern for adequate stakeholder representation at the Board level. However, this concern must be balanced against the need for the Board to be of a size that facilitates efficient management.</p> <p>We do not agree with the proposal that industry sectors providing larger contributions towards funding should have a larger representation on the Board. Such a proposal could send the wrong signal that funding institutions have influence over the Centre’s governance. Representation on the Board should be based on expertise, not contributions from a particular sector. We would like to reassure the public that industry directors will be appointed on the basis of their knowledge and expertise in financial sector issues, and will be expected to canvas views from relevant stakeholders in the industry so that these can be communicated and taken into account at the Board level.</p>
<b>MEMBERSHIP</b>		
<b>Voting rights</b>	<p>One respondent queried the voting rights available to member institutions.</p>	<p>Financial institutions should not regard their membership of FIDReC as conferring ownership rights over the Company.</p> <p>Financial institutions are members of FIDReC in the sense that they have entered into a subscription agreement with FIDReC to use its services and abide by its rules. However, financial institutions will</p>

		<p>not have voting rights over appointments to the Board or amendments to the Company’s Articles, bye-laws, rules and budget.</p> <p>These powers will reside with the Board of FIDReC, subject to certain checks imposed by MAS.</p> <p>To ensure the views of financial institutions are taken into account at the Board level, the Articles of FIDReC state that the Board must include 3 industry directors.</p>
<p><b>Expulsion</b></p>	<p>Several respondents questioned the appropriateness of equipping FIDReC with the powers to expel a member if the intent was for all relevant financial institutions to participate. Expulsion could be an avenue through which some institutions were permitted to opt out of participating FIDReC.</p> <p>Some respondents were concerned with the sanctions that might be taken against financial institutions by MAS should they be expelled. Respondents suggested removing the powers of FIDReC to expel members, and replacing these with graduated penalties such as warning letters or monetary fines.</p>	<p>FIDReC will only terminate subscription as a last resort. The exercise of this sanction would entail a regulatory breach under a regulatory regime where membership of an approved dispute resolution scheme is compulsory. Hence this should not be seen as an avenue for opting out of participating in a dispute resolution scheme.</p> <p>We will consider introducing graduated penalties such as warning letters and fines. However, the availability of powers to terminate an institution’s subscription is necessary to provide FIDReC with credibility in enforcing its decisions over subscribers.</p> <p>Following termination MAS may take appropriate action against the financial institution as spelt out in legislation. Such actions may include, but are not limited to:</p> <ol style="list-style-type: none"> <li>a. Issuing of a written reprimand</li> <li>b. Imposition of a fine not exceeding \$50,000</li> <li>c. Imposition of licensing conditions that may include restrictions on the business activities of the financial</li> </ol>

		<p>institution involved.</p> <p>MAS will provide its regulated entities with further details on the legislation that will be introduced in this respect in due course.</p>
<b>Appeals</b>	<p>Respondents felt it would be necessary to introduce an appeals process against determinations and awards made by adjudicators to ensure adjudicators do not abuse their powers.</p>	<p>We do not agree with the proposal for an appeals process that could over-ride decisions taken by an adjudicator. One of FIDReC's underlying objectives is to provide a quick and affordable alternative to formal legal processes. An appeals process on the decisions of FIDReC would diminish the authority of adjudicators, and lengthen the time taken to settle a dispute.</p> <p>We would like to reassure the public that all adjudicators will be carefully selected on the basis of their expertise, i.e. qualification or certification, and will be required to abide by a Code of Conduct for Adjudicators issued by FIDReC.</p> <p>If members of the public or financial institutions have complaints regarding the conduct of adjudicators or FIDReC case managers during the mediation or adjudication process, they can raise such complaints with the Board.</p>
<b>FUNDING</b>		
<b>Product providers</b>	<p>One respondent opined that product providers should not be charged for disputes lodged against product distributors.</p>	<p>We agree. The funding proposal takes this into consideration.</p>
<b>Block distribution</b>	<p>Respondents queried whether firms carrying out activities falling under several blocks would be charged a share of the levy for each of these blocks.</p>	<p>No, membership of a block will be based on the license carried by an institution. A firm that carries out financial advisory services but is exempted from having a license because it already has a banking</p>

<b>Budget &amp; Use of Funds</b>	Respondents queried whether members would be permitted to comment on budgets and the use of funds.	license, would only be included under Block A – not Blocks A and E.  Yes, the funding arrangements require consultation with all stakeholders. The Board will set up a Funding Sub Committee to review and fine-tune the funding arrangements on an annual basis, taking on board comments from all member institutions.
<b>Distribution of levy</b>	<p>Several respondents from the insurance industry which has a market share basis for distribution of the levy, disagreed with this funding basis. They opined that it was not necessarily the case that a larger institution would generate a larger number of complaints.</p> <p>In contrast, respondents from the fund management industry which does not have a market share basis for distribution, suggested introducing one. They proposed using assets under management as a proxy for determining market share.</p>	<p>We have consulted with the relevant industry associations and we believe the current method is the preferred choice of the general majority of insurers and should be maintained. We note that the present funding method will be reviewed after a year to see if it can be further refined.</p> <p>We would prefer not to introduce a market share basis for distribution of the levy for Block D institutions as the contributions of institutions in this sector is small and the number of institutions is large. Introducing the market share basis as proposed would require FIDReC collecting and maintaining figures on assets under management for all relevant institutions.</p>
<b>TERMS OF REFERENCE</b>		
<b>Scope</b>	Some respondents felt that the scope of FIDReC could be widened, and proposed expanding the list of eligible complainants to include small businesses using a turnover test to define such entities.	We would prefer to focus FIDReC’s resources on retail consumers during its initial years. Retail consumers are less financially able in comparison with small businesses and more likely to require the services offered by FIDReC. A key objective of FIDReC is to ensure that such consumers are able to obtain a fair deal through independent and affordable dispute resolution procedures. However, FIDReC remains open to reviewing this position in due course.

	<p>Other respondents in the financial industry felt FIDReC's scope was too large and proposed narrowing its scope by adding the following to the list of excepted complaints:</p> <ul style="list-style-type: none"> <li>a. disputes based purely on legal duty of care/construction of documents comprising the legal meaning/interpretation of the terms and conditions of a contract because such disputes are complex and more appropriately addressed in a court of law</li> <li>b. disputes for which legal action has commenced. If such disputes are to be included, FIDReC should clarify explicitly that it would require a stay of proceedings for cases filed in court.</li> <li>c. disputes where there is evidence of fraud or a criminal offence</li> <li>d. disputes which involve opportunity costs or losses not realized, or any non-financial losses.</li> </ul>	<p>We disagree. FIDReC has due legal process and sufficient expertise to handle such disputes.</p> <p>We disagree. Even though a case has been taken to court, an eligible complainant should be able to seek the services of FIDReC before the court has reached a final decision.</p> <p>We agree that all allegations of fraud/criminal cases where the matter has been referred to the police for investigation will be excluded from FIDReC's scope.</p> <p>Excluding all disputes involving non-financial losses would hinder FIDReC's ability to mediate a significant number of disputes where no apparent financial losses are incurred. We agree that monetary awards made by adjudicators should be limited to actual financial losses, and the terms of reference will be amended accordingly.</p>
<b>Confidentiality</b>	Many industry respondents were concerned with	We recognize these concerns. FIDReC will take steps to safeguard

	<p>maintaining the confidentiality of information provided to FIDReC and dispute resolution proceedings.</p> <p>Respondents also expressed concern with the publishing of decisions, or the implications if there was a breach of confidential information by consumers.</p>	<p>the confidentiality of all documents in its possession, as is the existing practice under the CMU and IDRO. Details of mediation and adjudication proceedings will not be disclosed to the public. The evidence of third parties, such as witnesses, will also be protected. However, to prevent possible abuse of the provisions protecting confidentiality, we would like to clarify that these provisions will not apply to evidence that would otherwise be admissible in court.</p> <p>Financial institutions should note that FIDReC cannot prevent consumers making public information regarding their complaints. However, consumers will be required to enter into a mediation and adjudication agreement with the relevant financial institution before proceedings begin, and the terms of such agreements will include confidentiality provisions. Parties to such proceedings are thus contractually bound to each other to respect the sanctity of the information disclosed through such proceedings.</p> <p>The text of adjudicator findings and decisions will not be published.</p>
<b>Judicial precedence</b>	Respondents queried the implications of FIDReC's decisions on judicial precedence.	Each tribunal convened to adjudicate under FIDReC is independent, and decisions made would not be binding on any other tribunal.
<b>Adjudication vs. Arbitration</b>	Respondents sought clarification on the difference between the adjudication procedure under FIDReC and arbitration.	Adjudication and arbitration are essentially similar. However, adjudication under FIDReC differs from conventional arbitration in the sense that the determination binds only one party, i.e. the financial institution in question.
<b>Monetary award limit</b>	One respondent felt the monetary award limit should be streamlined to \$100,000 for all disputes and raised	We agree with the view that there is a need for consistency in the monetary limit, and do not agree with the view expressed by some

	<p>to \$200,000 after a period of 3 years which is the level at which claims are brought to the High Court.</p> <p>Another respondent felt that the monetary award limit was too high and should be reduced to \$20,000 which is the limit for claims brought under the Consumer Protection (Fair Trading Act) (CPFTA).</p> <p>Industry respondents were critical of FIDReC's powers to grant non-monetary awards, noting such awards could prove to be more costly than monetary awards and could impinge on the commercial viability of a financial institution.</p> <p>One respondent also sought clarity on whether FIDReC would aggregate all claims/issues on a per customer basis to determine whether it was within</p>	<p>respondents for different limits to apply to different sectors. The limit for claims under FIDReC is \$50,000. The sole exception to this rule is for disputes involving claims between policyholders and insurance companies because, in such disputes, a \$50,000 limit is so low it would disqualify many claims from FIDReC's scope. Hence the existing \$100,000 limit for such claims under IDRO has been retained under FIDReC's structure.</p> <p>We do not believe it is appropriate to adopt the monetary limit under the CPFTA as financial sector disputes typically involve greater sums than disputes involving other retail goods and services.</p> <p>We note that currently both IDRO and CMU do not provide adjudicators with powers to make non-monetary awards. For continuity, we are willing to accept the proposal to limit the adjudicator's powers under FIDReC to the making of monetary awards. However, we note that in some cases, a monetary award may prove to be an inadequate or inappropriate remedy to a dispute. In such instances, adjudicators may include in their determinations, recommendations for financial institutions to pursue, or cease, a particular course of action in relation to the dispute. Such recommendations will not be binding on the institution involved. We recommend that the Board of FIDReC remain open to the possibility of introducing powers to make non-monetary awards in future, once the Centre has developed more experience from actual cases.</p> <p>We disagree with the view that claims should be aggregated on a per customer basis for the purposes of determining whether the claim falls within the monetary limit. This would appear to penalize</p>
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	the scope of the monetary award limit. The respondent was of the view that consumers could abuse the system by breaking up a large claim into several smaller claims.	customers with several insurance policies, or other financial products/services. Adjudicators will have the discretion to determine whether a dispute involves a claim that falls within the monetary award limit.
<b>Legal representation</b>	Respondents queried the extent of legal representation both financial institutions and consumers were permitted to have at the mediation and adjudication stages of the dispute resolution process.	<p>Financial institutions and consumers will not be allowed to engage lawyers if they are to be employed and remunerated for the express purpose of representing them in the mediation or adjudication process.</p> <p>FIDReC cannot prevent financial institutions from using the services of their in-house legal counsel; nor can we prevent consumers from engaging the legal services of friends or relatives if this is provided free of charge. However, legal representation in any capacity is discouraged. The purpose of FIDReC is to provide an affordable and accessible avenue for dispute resolution without the need for formal legal recourse.</p>



<b>Fees</b>	<p>Several alternative proposals were suggested to the fee schedule. Industry respondents felt the fee to consumers was too low to achieve its objective of discouraging frivolous disputes. It was proposed that the fee for consumers should be raised, with the possibility of re-imburement if the dispute was found in favour of the consumer.</p> <p>It was also suggested that the fee to consumers could be set on a scale proportional to the claim amount sought.</p>	<p>We are of the view that the \$50 fee is sufficient to deter frivolous complaints, without being so high that it deters retail consumers from using the services of FIDReC to resolve genuine and valid disputes with their financial institutions.</p> <p>We disagree with the proposal to scale fees in proportion to the claim amount, as disputes involving smaller claims are not necessarily less complex, and may entail the usage of as much resources as other disputes.</p>
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## ANNEX

### LIST OF RESPONDENTS

1. ABN AMRO Bank N.V Singapore
2. Alpha Financial Advisers Private Limited
3. Bank of China
4. Goodwins Law Corporation
5. Life Insurance Association, Singapore
6. Merrill Lynch International Bank Limited
7. Securities Association of Singapore
8. S K Boey
9. The Association of Banks in Singapore