



ADR Chambers Banking Ombuds Office (ADRBO)

ANNUAL REPORT

2011

TABLE OF CONTENTS

ADR Chambers Banking Ombuds Office Third Annual Report.....	3
2011 at a Glance.....	6
Case Studies.....	7
Terms of Reference.....	11
ADRBO Contact Information.....	18



ADR Chambers Banking Ombuds Office (ADRBO)

ADR CHAMBERS BANKING OMBUDS OFFICE

THIRD ANNUAL REPORT

1. This report covers the third year of operation of the ADR Chambers Banking Ombuds Office (ADRBO). ADRBO provides an independent dispute resolution process for clients of participating banks (Banks) who do not agree with the observations and recommendations made by the Bank's Ombudsman. ADRBO began operations on November 1, 2008. According to its Terms of Reference, ADRBO's authority and responsibilities include providing information to the public about the process for submitting and commencing complaints, receiving complaints for investigation, and investigating complaints with a view to their resolution by agreement or as a result of ADRBO's recommendations.

2. ADRBO is headed by the Banking Ombuds, who has both a legal background and training and experience in dispute resolution. The Banking Ombuds is supported by a Deputy Ombuds, administrative staff, and ten investigators. ADRBO staff members and investigators have experience and training in dispute resolution, complaint handling and consumer banking. Several staff members, including the Deputy Ombuds, are able to work in both French and English.

3. The initial contact person, based out of ADRBO's Toronto office, responds to inquiries and answers questions about the complaint procedure. There is an option for callers of the ADRBO toll-free contact number to select French or English. If the customer has not completed the Bank's internal complaint resolution process, the contact person refers the customer to the Bank so that he or she can complete the process. If the customer has completed the Bank's internal complaint resolution process, the contact person makes a prima facie assessment of whether the complaint falls within the scope of ADRBO's mandate. If it does not, an attempt is made to refer the customer to the appropriate complaint resolution process or entity. ADRBO also maintains a website (www.bankingombuds.ca) with basic information and documentation in English and French.

4. If the client has completed the Bank's internal complaint resolution process and appears to be eligible for ADRBO review, a Complaint Submission Form, Consent and Confidentiality Agreement, and copy of the ADRBO Terms of Reference are provided. Upon return of the signed submission and confidentiality agreement, the complaint is forwarded to the Banking Ombuds. The Banking Ombuds then assesses the complaint to determine whether it is within the scope of ADRBO's mandate and whether it requires a full investigation. The Banking Ombuds may seek to promote a resolution of the complaint by agreement between the complainant and RBC. If ADRBO is of the opinion that an investigation is highly unlikely to 1) yield a different conclusion than the Bank's position, or 2) result in any compensation to the Complainant, ADRBO may inform the complainant accordingly.

5. ADRBO strives to ensure that all investigations it performs are conducted in a fair, objective, impartial and thorough manner while respecting the rights and time constraints of the individuals involved. The investigator conducts interviews and reviews documents from both the complainant and the Bank, in order to determine whether there has been an act or omission by the Bank in the performance of a banking service that has caused the complainant actual loss, damage or harm. The investigator issues a written report, which may recommend that the Bank compensate the client or take other action. Although ADRBO's recommendations are non-binding, any refusal or failure by the Bank to accept an ADRBO recommendation will be posted on ADRBO's website.

6. Since November 1, 2011, the participating banks are the Royal Bank of Canada (RBC) and Toronto-Dominion Bank (TD). As the year under review concluded on October 31, 2011, this report is limited to ombuds activities involving RBC.

7. During the period under review, there were 312 contacts to ADRBO, a 32% decrease from the 456 initial contacts in 2010. The RBC Office of the Ombudsman also noted a decrease in complaints in fiscal 2011. All intakes were assigned a file number, even when the complainant was referred to RBC to complete the internal complaint and ombuds process. ADRBO referred 238 complainants, or 75% of initial contacts to RBC, in most cases because the complainant had not yet exhausted RBC's internal complaint process. This is up from 65% in 2009. Since many callers are referred to ADRBO by RBC branch and call centre personnel, ADRBO has continued to recommend that RBC reinforce training of front line staff and call centre consultants with respect to the internal complaint sequence (branch, customer care, RBC Ombudsman's Office). ADRBO has also begun to track these direct referrals, and to note the branch concerned for follow up with RBC.

8. Thirty-six contacts resulted in immediate intakes, which means that ADRBO sent the complainant the forms necessary to begin review of the complaint: the Complaint Submission Form and Consent and Confidentiality Agreement, while six resulted in intakes after an initial referral. Of these 42 intakes, 12 complainants did not return the completed forms, three matters were determined to be out of scope, one was withdrawn by the complainant, six were resolved, 11 were the subject of Initial Review Letters, 7 resulted in final reports, and two were under investigation at the end of the period under review.

9. Including files opened the previous year, a total of 60 files were closed during the period under review. Of these, there were 32 final reports and 14 Initial View Letters. Twelve matters were resolved, and two were found to fall outside the scope of ADRBO's mandate.

10. Of the 32 final reports issued, 13 recommended the payment of compensation and/or other action by RBC, while three of the Initial View Letters recommended payment of compensation as previously offered by RBC. Summaries of representative cases can be found below under "Case Studies." ADRBO is not aware of any cases in which RBC has refused to accept and/or comply with ADRBO's recommendations.

11. Section 16 of the ADRBO Terms of Reference requires ADRBO to make a recommendation on a complaint generally within 180 days of receiving it, unless it is prevented from doing so by

unavailability of information. During the period under review, the average time for completion of an investigation was 6.6 months, with the shortest period being 3 months and the longest 11 months. Of the 32 final reports issued during the period under review, 13 were issued within that time frame, while 19 exceeded it. ADRBO continues to strive to streamline its case processing and aims to complete all investigations well within the 180-day time limit. Upon acceptance of a file, Investigators are now required to commit to completing the investigation within three months.



2011 AT A GLANCE

Initial contacts	312
Referred to RBC	238
Intakes	36
Intakes after referral	6
Files Closed	60
Resolved without full investigation	12
Initial view letter	14
Full investigation and report	32
Out of Scope	2
Average time from assignment to recommendations	6.6 months

TYPES OF COMPLAINTS INVESTIGATED NOVEMBER 2010 – OCTOBER 2011

- ❖ Mortgage prepayment penalty
- ❖ Debit and credit card fraud
- ❖ Disputed Visa charges
- ❖ Termination of banking relationship
- ❖ Money order/wire fraud
- ❖ Account Signatories

CASE STUDIES

In order to preserve confidentiality and protect the privacy of complainants and bank personnel, these case studies do not include personal, corporate, or specific geographical identifiers, and certain facts have been changed that are not relevant to the outcome.

Joint Credit Line Expenses

A customer complained that RBC had increased the limit on a joint credit line with his mother from \$9,000 to \$35,000 without his permission. The customer had previously advised RBC that his mother had a tendency towards excessive spending and had issued instructions that the credit line was not to be increased past \$9,000 for this reason. RBC acknowledged that the increase was applied to the joint credit line by mistake and was intended for a different account with a similar number.

The customer did not become aware of the accidental increase until it had already been extensively used by his mother, because of a switch at about the same time from monthly mailed statements to on-line banking. Once he did, he complained. RBC recommended that the customer be responsible for all charges up to the original \$9,000 limit and that his mother be solely responsible for all charges past that limit, since she had benefited from them. The RBC Ombudsman concurred with this recommendation.

The matter was then referred to ADRBO, but the customer would not allow his mother to be interviewed or involved in the complaint, and would not produce any medical evidence relating to her spending problem. However, the bulk of the charges on the account, which totalled \$34,221.04 by the time of the investigation, were clearly attributable to the mother's transactions rather than the son's.

ADRBO concluded that RBC's existing offer was fair, since it absolved the customer of all liability beyond the \$9,000 limit he had instructed the bank to impose. Since the mother had not complained about the credit limit increase and refused to participate in her son's complaint, ADRBO also upheld RBC's position that she be solely liable for the remaining charges on the account. ADRBO noted that it did not have sufficient information to suggest a different conclusion.

Portable Mortgages

A couple who sold their house in one province wanted to transfer ("port") their RBC mortgage, with its existing rates and terms, over to a new home they planned to purchase in another province. While they claimed that they had understood from their banking manager that this was possible, they in fact discovered upon arrival in the new province that they were required to re-qualify for new mortgage rates and terms instead.

Unfortunately, the re-qualification was not successful, since the wife of the couple was on contract in her job without any indication of whether it would be renewed. The couple went to another bank to obtain the mortgage for their new home purchase instead. They were upset that RBC kept a pre-payment penalty of \$9,888 charged on their original mortgage that would have been returned to them if the mortgage had been 'ported' to the new province as intended.

However, notwithstanding what the couple said they were told by their bank manager, the couple's original mortgage documentation with RBC had specified that re-qualification and a pre-payment penalty would be required under conditions such as those above. Accordingly, when the RBC Ombudsman received a complaint from the couple, he found it to be unsubstantiated.

The Ombudsman did acknowledge that if there had been a lack of discussion at the original bank branch about these requirements at the time the couple decided to sell, this could have caused the couple to make a decision that they would not otherwise have made. He accordingly recommended that RBC offer the couple a \$750 goodwill payment.

The couple was not satisfied and referred the matter to the ADRBO. The ADRBO examined the original mortgage documentation, which contained full details of the re-qualification and pre-payment penalty requirements, and noted that the couple was advised by a lawyer at the time they signed this documentation. While the ADRBO noted that it was unfortunate if RBC staff had indeed failed to draw these requirements to the couple's attention at the time the couple decided to move, this did not relieve the couple of their contractual obligations.

The ADRBO upheld the Ombudsman's recommendation of a goodwill payment from RBC, but increased the suggested amount to \$1,500 to acknowledge the extent of the financial loss from the pre-payment penalty.

Old Stock Certificates

In 1969, an RBC customer pledged two share certificates as collateral for overdraft protection for a business he owned. The customer apparently also pledged an additional three share certificates as further collateral at the request of the bank in 1984, although he had less documentation to support the existence of this transaction.

In 1988, the customer sold the business, but never redeemed the share certificates from the bank. The customer states that he began making inquiries seeking their return in 2006. In 2009, there was an exchange of correspondence between the customer and RBC which established that RBC did not have the stock certificates.

RBC asserted that it had been standard practice at the time to return stock pledged as collateral for a business to the customer by mail when that business closed. The customer claimed he had never received such a package, and had assumed the certificates had been in safekeeping with the bank for the time period of more than 25 years that had passed in the interval.

The customer complained to the RBC Ombudsman, who informed him of various measures RBC had taken to try and locate any outstanding stock documentation. According to RBC, if it

still had the certificates, they would have been held in the branch's vault and unit record receipts, but nothing had been located there. Any records pertaining to the return of the stock certificates were no longer in existence due to routine destruction of records after a certain time frame. The branch also checked with the relevant companies for the stocks that were still trading, but the stocks had not been registered there.

The Ombudsman concluded that it was understandable that RBC's records would no longer be available after such a long passage of time, and assumed that the certificates had in all likelihood been mailed back to the customer in 1988 in accordance with what RBC had stated was standard procedure at the time. The Ombudsman suggested that the customer contact a registry service called Computershare that assists in the location of lost, destroyed or stolen stock certificates.

The customer was not satisfied and referred the matter to ADRBO. ADRBO noted that while the bank may have had a standard procedure in place, it could not demonstrate that it had been followed and that the stock certificates had in fact been returned to the customer. Upon examination, ADRBO found that the 1988 RBC branch policy actually specified that stock certificates were to be handed back to the customer in person with a signature for receipt, rather than sent via mail.

However, ADRBO also noted that the customer in this case had failed to monitor the stock certificates diligently, leaving them with the bank for a very long period without inquiries before requesting their return. It was also established that no one else had attempted to cash in or redeem the stock certificates, so no loss had occurred in the meantime.

ADRBO concluded that in the absence of any ability to prove what had happened to the certificates, each party bore some responsibility. ADRBO identified which of the relevant stock-issuing companies was still trading. ADRBO then distinguished between the 1969 certificates, for which the customer had more substantial proof, and the 1984 certificates, for which the documentary proof was insufficient.

ADRBO recommended that RBC provide compensation for the one 1969 stock still trading at a rate of 66.67% of the value of 100 shares as of a date ten years' after the sale of the business in 1998. Using the stock price on that date (chosen as a reasonable time by which the customer might have been expected to request the certificates back), the recommended amount of RBC compensation to the customer was \$435.02.

Unauthorized Removal of Funds From Account

An RBC customer complained about a third party removing funds from his bank account using his ATM card. This complaint was made more than six months after the alleged activity on his bank account occurred.

The customer in question had been close to the third party he accused of the theft until just before he made the allegations to the bank. Although his parents had tried to suggest to him that his friend was responsible, owing to similar withdrawals on a joint account they held at

another bank, the friend had denied it and the customer believed him. The customer had moved to another province with the friend in the interim, but says he later realized his parents were right, as a result of bank statements from RBC forwarded to him which showed that the friend had been depositing fraudulent cheques on his account and then withdrawing money via the ATM.

When the customer tried to complain to his RBC branch in his new province, he was told he had to deal with his home branch. His parents contacted the home branch and tried to complain on his behalf, but since they were not RBC customers, they were told the bank could not discuss their son's banking with them.

The customer eventually left the friend, returned to his home province, and took up the matter with the home branch again at that point. He also reported the friend to the police, who issued warrants for arrest.

The RBC National Fraud Detection group undertook an investigation, and concluded that the disputed transactions were the responsibility of the customer, since he had in their view not taken sufficient care to guard his card and PIN, as required by the customer agreement governing his account, nor had he reported the disputed transactions within the 45 days required by that agreement.

ADRBO then investigated, and concluded that since the customer had failed to notify RBC promptly within the time frame required by the agreement, and in particular since he did not follow up immediately upon receiving statements showing his friend's name on the transactions, that responsibility for the loss would remain with the customer. ADRBO noted that the customer's parents had been compensated by the other bank regarding their joint account losses because they had reported the unauthorized activity right away, but that the customer had not done so in the RBC case, and that the outcome might have been different if he had. No compensation was recommended.



TERMS OF REFERENCE

Effective November 1, 2011.

The ADR Chambers Banking Ombuds Office Terms of Reference are as follows:

PURPOSE

1. These Terms of Reference describe the scope of the mandate of the ADR Chambers Banking Ombuds Office (“ADRBO”), its process upon receiving Complaints, and the authority and responsibilities of the ADRBO Banking Ombuds and Investigators.

DEFINITIONS

2. The definitions in the Terms of Reference are as follows:

- **ADR Chambers** means ADR Chambers Inc. and its affiliates;
- **Banking Ombuds** means the individual designated by ADR Chambers to handle Complaints and coordinate the activities of ADRBO in accordance with these Terms of Reference;
- **Complainant** means any small business or individual customer of a Participating Financial Institution (or their representative) who is making a Complaint to ADRBO. This would include a personal representative, guardian, trustee or executor;
- **Complaint** means a written expression of dissatisfaction about the provision of a service provided by a Participating Financial Institution to a Customer in Canada;
- **Customer or Client** means an individual who, or small business that requested or received a service from a Participating Financial Institution;
- **Financial Services** means a financial product or service, or advice about a financial product or service;
- **GIO** means the General Insurance OmbudService;
- **Industry OmbudService** means any of the OBSI, the OLHI and the GIO.
- **Initial View Letter** means a letter sent to the Complainant and the Participating Financial Institution concerned when ADRBO is of the opinion that, based on the information received during the complaint assessment stage, a full investigation would not result in a different outcome or any recommendation for compensation. An initial view letter is usually brief, includes a summary of the facts based on ADRBO’s contact with the Complainant and any documentation received from Complainant or during the complaint assessment stage, provides the Complainant with a brief explanation of why further investigation is unwarranted, and explains that the file is being closed;
- **Investigator** means the individual performing an investigation;
- **OBSI** means the Ombudsman for Banking Services and Investments;
- **OLHI** means the OmbudService for Life & Health Insurance;
- Participating Financial Institution means a financial services provider that uses the services of ADRBO; and
- **Standards** means any standards established by ADRBO for the conduct of the investigation and resolution of the Complaints.

3. References to the male gender include, where the context allows, the female gender and vice versa and references to the singular number include, where the context allows, the plural number and vice versa;

4. References to sections and paragraphs are to sections and paragraphs of these Terms of Reference.

AUTHORITY AND RESPONSIBILITIES

5. ADRBO will:

- adhere to these Terms of Reference;
- provide information to the public about the process for submitting and commencing Complaints;
- receive Complaints for investigation;
- assess incoming Complaints to determine whether they are within its mandate;
- review Complaints in order to ascertain whether a full investigation is warranted;
- investigate Complaints with a view to their resolution by agreement or as a result of ADRBO's report (subject to the restrictions in these Terms of Reference);
- where appropriate, make recommendations to both Participating Financial Institutions and Complainants to resolve Complaints;
- not disclose confidential information about Complaints; and
- not provide other professional advice in the form of legal representation or advice, nor financial representation or advice to a Complainant or a Participating Financial Institution.

6. ADRBO will act at all times in an independent and impartial manner and not advocate on behalf of the Participating Financial Institution or the Complainant.

7. The Banking Ombuds may act as Investigator and/or delegate responsibilities to other Investigators and staff of ADRBO in the investigation and processing of a Complaint.

8. ADRBO and its staff will act in compliance with privacy rules, privacy legislation and applicable codes of conduct. ADRBO will ensure that all members of its staff are aware of and comply with applicable codes of conduct, privacy policies and obligations towards both the Complainant and the Participating Financial Institution.

9. ADRBO will report to Participating Financial Institutions information regarding any threat to the Participating Financial Institution's staff or property that may become apparent during its performance of its duties.

MANDATE

10. ADRBO may investigate any Complaint received if all of the following conditions apply:

- the Complaint is submitted to ADRBO by the Complainant to whom or for whom the financial service in question was provided by a Participating Financial Institution or its representative. It is desirable that all persons with an interest in the Complaint, such as joint account holders, make the Complaint. Nevertheless, ADRBO may decide that the

non-participation of a person with an interest in the Complaint does not prevent the consideration of the Complaint, provided that all necessary consents to release confidential information have been obtained.

- the Participating Financial Institution has received a Complaint and rejected the Complaint or made a recommendation for resolution of the Complaint, but the Complainant has not accepted the recommendation proposed by the Participating Financial Institution. It is anticipated that a Participating Financial Institution will usually make its recommendation within 90 days of the submission of the dispute to the Participating Financial Institution's Ombudsman's Office. ADRBO may investigate a complaint if more than 90 days has passed since the complaint was submitted to the Participating Financial Institution's Ombudsman's Office and, in the opinion of ADRBO, it is not reasonable to give the Participating Financial Institution more time to complete its investigation.
- the Complaint has been made to ADRBO within 180 days of the Participating Financial Institution's rejection of or recommendation for resolution of the Complaint. ADRBO may receive and investigate a Complaint for a period of up to 12 months after the Participating Financial Institution's rejection of or recommendation for the Complaint if it is considered fair and reasonable to do so.
- the subject matter of the Complaint by the same Complainant (or any one or more of a group of Complainants) was not previously considered by ADRBO or OBSI. Where a Complaint has been previously considered but, in the opinion of ADRBO, relevant new information is available, a Complainant may request that the Participating Financial Institution reconsider the Complaint in light of the new information. After the Participating Financial Institution considers the Complaint or if the Participating Financial Institution refuses to reconsider its recommendations, the Complainant may request that ADRBO reconsider the Complaint.
- the subject matter of the Complaint by the same Complainant (or any one or more of a group of Complainants) has not been or is not the subject of any proceedings in or before any court of law, tribunal or arbitrator, or any other independent dispute resolution body, unless the Participating Financial Institution consents to the investigation in such circumstances.
- ADRBO has received appropriate consents concerning the release and treatment of confidential information from all necessary parties and any other agreements or releases that are considered appropriate in the circumstances in the Consent and Confidentiality Agreement, and
- the Complaint is being pursued reasonably by the Complainant and not in a frivolous, vexatious or threatening manner.

11. ADRBO will not investigate or shall cease to investigate Complaints:

- To the extent that their subject matter materially relates to:
 - a. The general interest rate and risk management policies and practices of the Participating Financial Institution,
 - b. The pricing of Financial Services by the Participating Financial Institution,
 - c. The scale of fees or charges generally applicable to Financial Services offered to Customers of the Participating Financial Institution in similar circumstances, or
 - d. The Commercial Judgment of the Participating Financial Institution, unless the Participating Financial Institution has made a Commercial Judgment that was biased, incomplete, or otherwise unfair.

- in the subject matter of which ADR Chambers has or may reasonably be perceived to have a material interest. In those circumstances, ADRBO will notify the Complainant and the Participating Financial Institution and will be entitled, at its discretion, to refer the Complaint to an alternative organization or to advise the Complainant of the ability to access the legal system or private arbitration.
- made by unrelated Complainants based on different facts that raise the same or similar issues with the object of making a “class action”-type recommendation; or
- where ADRBO decides that there is a more appropriate place for them to be dealt with, such as a court of law, a regulator, an arbitration procedure or any other dispute resolution process.

12. ADRBO may proceed with an investigation of a Complaint that is also being investigated by any regulatory body having authority over the Participating Financial Institution. Should ADRBO defer consideration of or decline to consider the Complaint, it shall notify the Complainant and the Participating Financial Institution of its decision, any further steps that ADRBO may consider taking following the completion on the regulatory investigation, and any other dispute resolution alternatives that may be available to the Complainant.

13. ADRBO may investigate a Complaint involving a claim for any monetary amount, provided that the Complaint falls within the mandate under these Terms of Reference.

14. Where, in the opinion of ADRBO, the subject matter of a Complaint (in whole or in part) is one in which the Industry OmbudService for insurance, securities or mutual funds has expertise and the Complainant and the Participating Financial Institution consent, ADRBO may cooperate with that Industry OmbudService in the investigation of the Complaint and may, if appropriate, make a recommendation jointly with the other Industry OmbudService for the resolution of the Complaint. Similarly, ADRBO may cooperate with another Industry OmbudService in the investigation and resolution of a Complaint referred to ADRBO by that Industry OmbudService. Complaints relating to a Participating Financial Institution’s insurance business should be referred to GIO and OLHI. Complaints relating to a Participating Financial Institution’s securities dealers or mutual fund subsidiaries should be referred to OBSI.

15. ADRBO shall determine the procedures for filing a Complaint and for reviewing and investigating Complaints, having regard for these Terms of Reference. ADRBO shall not be bound by the rules of evidence. ADRBO and its Investigators shall use their judgment to evaluate the quality of the evidence, the weight that should be attached to it, and its effect on the final outcome of the investigation. ADRBO will determine if a Complaint falls within its mandate under these Terms of Reference and, in reaching this decision, may consider representations from the Complainant and from the Participating Financial Institution.

16. ADRBO will make a recommendation on a Complaint within 180 days of receiving the Complaint (unless the unavailability of the information prevents ADRBO from making its recommendations within 180 days). Receipt of a Complaint will be acknowledged to the Complainant within 3 business days of ADRBO receiving the Complaint and notification to the Participating Financial Institution of the receipt of a Complaint will be given within 30 days of ADRBO receiving the Complaint.

17. Each Participating Financial Institution will appoint a final internal arbiter of unresolved customer complaints and shall:

- fully cooperate with and assist ADRBO in the investigation of a Complaint that has been accepted by ADRBO;
- provide all non-privileged information (such as notes, correspondence including emails and facsimiles, account statements, customer records from internal databases, transaction records, opening agreements, internal policies, etc. relating to the subject matter of the Complaint) in its possession or control, as soon as is reasonably practical, unless the Participating Financial Institution demonstrates to ADRBO's satisfaction that the disclosure of the information would likely place the Participating Financial Institution in breach of the law or its duty of confidentiality to a third party where consent to disclose has not been obtained, despite its best efforts to obtain that consent; and
- communicate to Complainants about the Participating Financial Institution's internal Complaint handling processes and the right of escalation of an unresolved Complaint to ADRBO.

18. The ADRBO process is confidential. The discussions and correspondence of the Complainant, the Complainant's representatives, the Participating Financial Institution and ADRBO that form part of the ADRBO process will not be disclosed or used in any subsequent legal or other proceedings. The files of ADRBO are confidential and are protected from disclosure for all purposes. In addition, none of ADRBO or ADR Chambers, or their officers, employees or contractors will be called to testify in any subsequent legal or other proceedings. A Consent and Confidentiality Agreement will be signed by the Complainant when ADRBO agrees to review the Complaint.

19. If any person discloses information to ADRBO and requests that it not be disclosed to another person, ADRBO will not disclose the information to the other person except with the consent of the person who disclosed the information to ADRBO. If consent is not given and the information is prejudicial to the other party to the Complaint, ADRBO will not use that information to make a recommendation adverse to that person to whom the information is denied, except as provided in Section 20 below.

20. ADRBO may take account of a Participating Financial Institution's proprietary systems and security measures of which ADRBO has knowledge, even though no disclosure of those systems and measures has been or will be made to the Complainant.

21. If ADRBO becomes aware of systemic issues or a pattern of complaints, ADRBO will raise the issue with the Participating Financial Institution concerned so that it can be addressed and resolved.

22. As part of the exercising of its functions and responsibilities, ADRBO will have due regard to its effective, economic and efficient operation.

RECOMMENDATIONS AND REJECTIONS OF COMPLAINTS

23. ADRBO will not make a recommendation, or reject a Complaint, except in accordance with the provisions of sections 24 to 31 below.

24. ADRBO will review each complaint in order to determine whether it can be addressed on the basis of the information provided by the client and information or documentation obtained from the Participating Financial Institution. Where ADRBO is of the opinion that it is highly unlikely that an investigation would yield a different conclusion than the Participating Financial Institution's position, or would result in any compensation to the Complainant, ADRBO may issue an Initial View Letter. In cases in which the Participating Financial Institution has made a settlement offer that the complainant has found unsatisfactory, ADRBO may attempt to facilitate a settlement by discussing the matter with the Complainant and the Participating Financial Institution.

25. After the investigation of a Complaint, ADRBO may make a recommendation for compensation if it is of the opinion that the Complainant has suffered loss, damage or harm because of an act or omission by the Participating Financial Institution in the provision of Financial Services.

26. While ADRBO is investigating a Complaint, the Banking Ombuds and/or Investigator may seek to promote a resolution of the Complaint by agreement between the Complainant and the Participating Financial Institution. While ADRBO is investigating a Complaint, the Participating Financial Institution and the Complainant may continue to seek to resolve the Complaint themselves. If the Participating Financial Institution and the Complainant do not resolve the Complaint, ADRBO will complete the investigation of the Complaint and make a recommendation for the resolution of the Complaint.

27. ADRBO's recommendation:

- will be in writing;
- will include a summary of the Investigator's reasons;
- will first be provided to the parties in draft;
- may be made jointly with another Industry OmbudService in the circumstances describe in Section 15; and
- is not binding on the Participating Financial Institution or the Complainant.

28. ADRBO will make a recommendation or reject a Complaint with reference to what is, in ADRBO's opinion, fair and reasonable in the circumstances to the Complainant and the Participating Financial Institution. In determining what is fair, the Investigator will take into account general principles of good financial services and business practice, law, regulatory policies and guidance, professional body standards and any relevant code of practice or conduct applicable to the subject matter of the Complaint. To identify principles of good financial services and business practice, the Investigator may, where appropriate, consult within the financial services industry or elsewhere. ADRBO will not be bound by any of its previous recommendations.

29. ADRBO's recommendation should seek to achieve a resolution of a Complaint that is satisfactory to the Complainant and the Participating Financial Institution. ADRBO will not recommend compensation that would be greater than an amount that the Investigator considers to be appropriate to compensate the Complainant for loss, damage or actual harm suffered by the Complainant by reason of the acts or omissions of the Participating Financial Institution in the provision of a Financial Service.

30. If the Participating Financial Institution does not accept ADRBO's recommendation, ADRBO will post on the ADRBO website its recommendation and the Participating Financial Institution's refusal to accept it, as well as describing the Complaint in a general way without revealing any confidential information of either the Participating Financial Institution or the Complainant (except to the extent the Participating Financial Institution or the Complainant agrees to such disclosure of their respective confidential information). The Participating Financial Institution's refusal to accept the recommendations and the general circumstances of the case shall also be reported in the ADRBO annual report referred to in Section 31.

31. ADRBO will maintain a website available to the general public which describes the Complaint review process, its general mandate, contact information and other information which ADRBO deems appropriate. ADRBO will also prepare and make available to the general public an annual report containing:

- statistics and other general information of the Complaints it has processed in the year (with all personal and corporate identifiers removed), and
- any recommendations referred to in Section 30.



ADRBO CONTACT INFORMATION

ADR Chambers Banking Ombuds Office
112 Adelaide Street East
Toronto, Ontario M5C 1K9

Phone: **1-800-941-3655** (toll free)

Fax: **1-877-307-0014** (toll free)

Email: contact@bankingombuds.ca

Web: www.bankingombuds.ca

