

# Annual Report 2009



OFFICE OF THE  
FINANCIAL SERVICES OMBUDSMAN

*Increasing Public Confidence In Insurance & Banking Through Resolving Disputes*

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Mr. Ewart Williams  
Governor of The Central Bank  
of Trinidad and Tobago

## FOREWORD

By the Governor of the Central Bank

Since 2003, the Office of the Financial Services Ombudsman (OFSO) has been an important part of the financial architecture of Trinidad and Tobago. Over the past seven years the OFSO has mediated on more than 2000 complaints with a resolution factor of over 80 per cent. This is a meaningful achievement, which is entirely due to the generous cooperation of the member institutions, and the diligence of the staff of the OFSO.

During the past eighteen months the global economy has faced severe turmoil from which it is only now beginning to emerge. On the domestic front the downturn in the economy, following several years of continued expansion, has presented several challenges. In January 2009, the collapse of the CL Financial conglomerate created ripple effects for the financial sector. However, prompt action by the Government and the Central Bank served to avoid the incidence of greater contagion. The OFSO also worked to ease investors' fears about the health of the financial system. During 2009, the Office stepped up its public

awareness campaign by reaching out more to residents in the rural areas, as well as those in Tobago. There was a significant rise (26 per cent) in the total number of complaints received, but this was due to the 30 per cent increase in complaints against insurance companies. The downward trend in complaints against the banking sector continued with another fall off (12 per cent) after the 23 per cent decline recorded in 2008.

The significant increase in complaints against insurance companies represented a reversal of the decline recorded in 2008. While five companies continued to account for about two-thirds of all complaints received, there was a disturbing increase (45 per cent) in complaints against the other companies. The statistics also showed that once there was an intervention by the Office most of these complaints were resolved via agreement. One obvious conclusion from these data is the need for insurance companies to review their internal dispute resolution mechanisms and ensure that their personnel are appropriately trained to deal with customers. I am aware that some companies are yet to establish these mechanisms as set out in the Claims Guideline of 2008. The Regulator will seek to ensure that this is done as a matter of urgency.

Meanwhile, the Central Bank will continue to strengthen its regulatory framework, including through the introduction of a new Insurance Act. In addition, the OFSO, in partnership with the Central Bank, will encourage and facilitate the development of financial education programmes for our citizens. What the recent financial turbulence has highlighted is the need for citizens to better understand the range of financial products on the market to be able to manage their personal finances efficiently.

The OFSO will soon begin the preparation of a five-year strategic plan that focuses on defining acceptable standards of market conduct and the empowerment of customers through relevant information and education.

I wish to emphasize the need for all financial institutions to review their own strategies and business models to ensure that their customers fully understand the products they offer and get the quality of service they deserve.

Finally, I wish to take this opportunity to express my sincere thanks and appreciation to Ms. Ann Marie Narine who demits office as the Financial Services Ombudsman on April 30, 2010. During her two year tenure, she was able to successfully expand the OFSO's operations to Tobago, preside over the addition of eight licensed non-bank financial institutions to the Scheme and improve the public awareness of the Office. This has resulted in very many more customers using the services.

Ms. Narine will be succeeded by Ms. Suzanne Roach who has worked for many years in the Central Bank where she is currently the Manager of the Internal Audit Department.

Ewart S. Williams  
Governor  
April 2010



Ms. Ann Marie Narine  
Financial Services Ombudsman

## PREFACE

By the Financial Services Ombudsman

In the 2008 Annual Report, I had indicated that we would be embarking on several initiatives to increase public awareness of the services offered. I am pleased to report that these initiatives were successfully accomplished and as a result the year 2009 was indeed a very busy one for the Office.

Complaints to the Ombudsman recorded an overall increase moving from 295 complaints received in 2008 to 373 or 26% in 2009. This increase was a reversal of the decrease that was reflected in 2008 and occurred as a result of the heightening of the profile of the Office via our media offerings and our participation in several expositions. In fact, the statistics showed that after the Office participated in an exposition in February 2009, complaints during the period February to April increased by 54% over the same period in 2008. Similarly, during the period July to November 2009, there was a spike in complaints of 63% following the launch and distribution of the quarterly Newsletter, the Mediator, the television appearance of the Financial Services Ombudsman and the wide distribution of our brochures by the member institutions to their customers. The regular

visits to Tobago to address complaints also contributed to the increase during this period. Details of our achievements are set out in the subsequent pages of this Report.

It is noteworthy that the increase in complaints was fuelled primarily by those received against insurance companies since complaints against banks declined for another year. Third party motor vehicle accident complaints were in the majority with most customers expressing dissatisfaction with inadequate amounts offered for settlement. We have noted with some concern complaints from customers in respect of abusive treatment by some insurers and we wish to advise that more adequate training programmes should be developed for personnel interacting with the public.

Our office administration continued to be highly effective despite the substantial increase in complaints. This was evident by the improvement in the time taken to resolve complaints, especially in the category of complaints resolved in excess of 120 days. The cooperation of the member institutions in providing the information requested on a more timely basis also contributed to the improvement and we thank them sincerely for their efforts.

The year 2009 was quite challenging for the Office with the financial turbulence that occurred in our financial system. The number of telephone calls and emails to the Office was substantial and this can be viewed as an indication that the public regarded the Office as a valuable source of information. However, the increased workload did put some strains on the Office but the continuous dedication and commitment of the staff pulled us through several difficult moments during this period.

As I demit Office on April 30, 2010 after two years, I am satisfied that I was able to accomplish the objectives established for the said period. Indeed, the Office remains a credible alternative option for customers dissatisfied with responses from their institutions. In addition, the profile of the Office has been raised significantly with more persons using the free and independent service. Our public education initiatives, whether they were via our partnering with the National Financial Literacy Programme or our own Lessons Learnt from actual Case Studies in the newsletter, were indeed successful based on the feedback and kudos received.

Finally, I wish to thank the Governor of the Central Bank for affording me the opportunity to serve in this capacity and for the support over the period. I am extremely grateful to all the member institutions who through their cooperation made my two year journey with them an enjoyable and worthwhile experience. The devotion of the staff of the OFSO was immeasurable and I sincerely offer my gratitude and immense appreciation for the high quality of work that they consistently produced. I have no doubt that the OFSO will continue to play a significant role in instilling public confidence through the resolution of disputes and so contribute to the financial stability of Trinidad and Tobago.

Ann Marie Narine  
Financial Services Ombudsman  
April 2010



## REPORT ON BANKING/ NON-BANKING COMPLAINTS

For the year ended December 31, 2009

### COMPLAINTS RECEIVED

In 2009, the Office of the Financial Services Ombudsman (OFSO) received twenty two (22) complaints from individuals who were dissatisfied with the services being offered by their respective commercial banks and licensed non-bank financial institutions (NFIs). This represented a marginal decrease in the number of complaints when compared to the previous year's figure of 25. See Figure 1

Of the twenty-two complaints received, fourteen or 64 per cent were classified as non-qualifying since they were not eligible for official consideration by the OFSO. Nevertheless, all these complaints were referred to the respective financial institutions, albeit informally, in order that the issues relating to the complaints could be appropriately addressed. All other complaints were investigated by the OFSO and were resolved by the end of the year.

The types of banking complaints received in 2009 followed the same trend as in previous years with the majority relating to the issue of "unsatisfactory service" received from the banks. Complaints about unauthorized

transactions, service fees, loan transactions and credit policies accounted for the remainder of the complaints received.

Section 127 of the Financial Institutions Act, 2008 (FIA 2008) makes it mandatory for all institutions licensed by the Central Bank of Trinidad and Tobago to be a participant in an Alternative Dispute Resolution Scheme approved by the Bank. As a result, in March 2009 the number of participating members increased when eight (8) NFIs joined the Financial Services Ombudsman Scheme. For the period March to December 2009, three (3) complaints were received from customers of these institutions.

Despite the challenges faced by the financial sector in 2009, the banks were able to handle customer complaints quite effectively because of their well-established systems and procedures in respect of complaints handling. The resultant effect has been a continuous downward trend in complaints against the banks received by the OFSO. The efforts by the banks in this regard are to be commended.

Figure 1  
Banking Complaints Received for 2008 and 2009

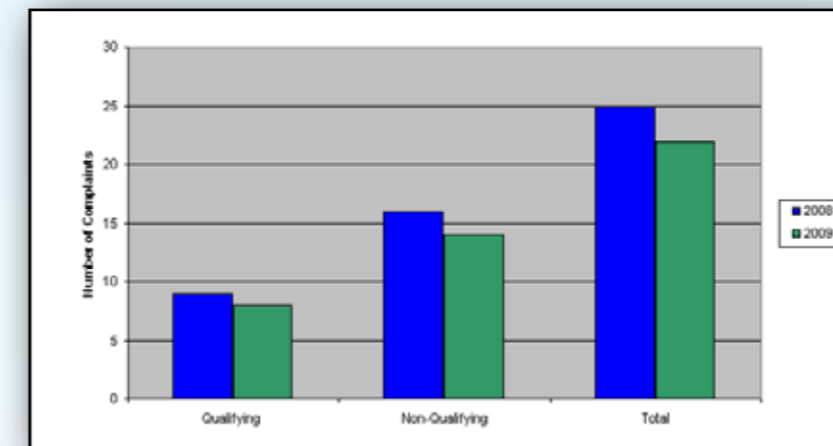


Table 1

| Banking\Non Banking Complaints processed by the OFSO |      |      |
|--|------|------|
|  | 2009 | 2008 |
| Brought Forward                                      | 2    | 3    |
| Received   | 22   | 25   |
| Subtotal   | 24   | 28   |
| Resolved   | 21   | 26   |
| Carried forward                                      | 3    | 2    |

Table 2

| Banking/Non Banking Complaints Received: By Type |           |                   |           |                   |
|--|-----------|-------------------|-----------|-------------------|
|  | 2009      |                   | 2008      |                   |
|  | Total     | Per cent of Total | Total     | Per cent of Total |
| Accounts and Transactions                        | 7         | 32                | 17        | 68                |
| Card Services                                    | 3         | 14                | 0         | 0                 |
| Fees and Charges                                 | 2         | 9                 | 2         | 8                 |
| Loans and Credit                                 | 5         | 23                | 2         | 8                 |
| Mutual Funds                                     | 1         | 5                 | 0         | 0                 |
| General Interest Rate Level                      | 0         | 0                 | 1         | 4                 |
| Credit Policies and Decisions                    | 1         | 5                 | 2         | 8                 |
| Other  | 3         | 14                | 1         | 4                 |
| <b>TOTAL</b>                                     | <b>22</b> | <b>100</b>        | <b>25</b> | <b>100</b>        |

## REPORT ON INSURANCE COMPLAINTS

For the year ended December 31, 2009

### COMPLAINTS RECEIVED

The Office of the Financial Services Ombudsman (OFSO) received three hundred and fifty-one (351) complaints against insurance companies in 2009, 30 per cent higher than that of 2008.

While there were only three complaints from small businesses, sixty six (66) of these complaints were outside of the Terms of Reference of the OFSO. As such, these were referred to the Financial Institutions Supervision Department (FISD) of the Central Bank for the appropriate action to be taken for resolution. Most of these complaints were in relation to non-payment

of claims for personal injuries and from third parties involved in motor vehicle accidents where the respective claims were in excess of \$25,000. There were also some complaints against agents, salesmen and brokers which were also referred to the FISD. (See Table 3)

Generally, complaints were somewhat evenly distributed throughout the year. However there was a peak in July and August when a total of 69 complaints were received. (See Table 4 and Figure 2)

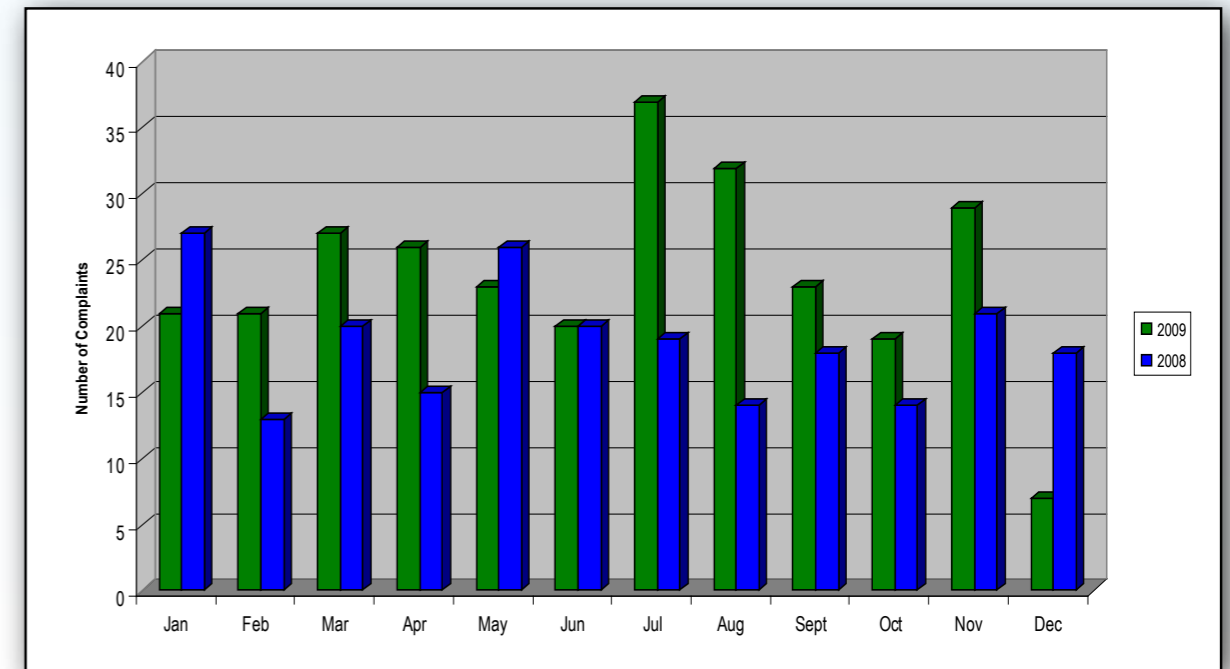
Table 3

| Summary of Insurance Complaints Received |      |      |
|--|------|------|
|  | 2009 | 2008 |
| Complaints Received                      | 351  | 270  |
| Referred to the Central Bank             | -66  | -45  |
| Processed by the OFSO                    | 285  | 225  |
| Brought Forward                          | 46   | 66   |
| Closed                                   | -270 | -245 |
| Carried Forward                          | 61   | 46   |

Table 4

| Summary of New Complaints Received and Processed by Month |     |     |     |     |     |     |     |     |      |     |     |     |        |
|---|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|--------|
| Year  | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sept | Oct | Nov | Dec | Totals |
| 2009  | 21  | 21  | 27  | 26  | 23  | 20  | 37  | 32  | 23   | 19  | 29  | 7   | 285    |
| 2008  | 27  | 13  | 20  | 15  | 26  | 20  | 19  | 14  | 18   | 14  | 21  | 18  | 225    |

Figure 2



# REPORT ON INSURANCE COMPLAINTS

For the year ended December 31, 2009

## TYPES OF COMPLAINTS

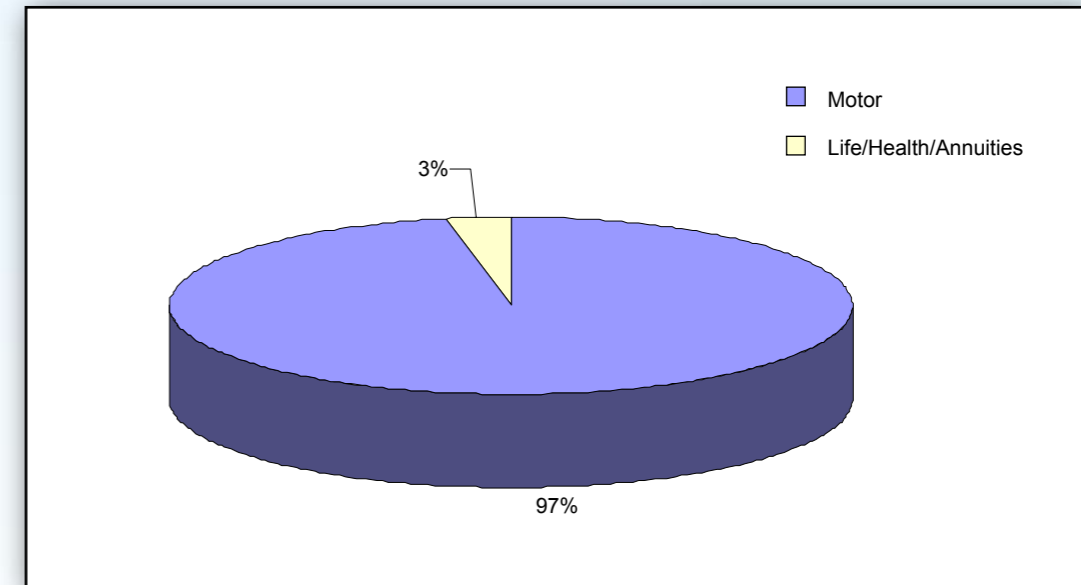
As in previous years, most of the complaints addressed by the OFSO were related to claims arising out of motor vehicle accidents and particularly from third-party claimants. Two hundred and seventy (276) or 97 per cent of the complaints were in this category.

The OFSO also received nine (9) complaints about issues pertaining to life insurance policies, annuities and health plans. No complaints were received about home or property insurance matters. (See Table 5 and Figure 3)

Table 5

| Types of Complaints          |                   |                   |                   |                   |
|------------------------------|-------------------|-------------------|-------------------|-------------------|
|                              | 2009              |                   | 2008              |                   |
|                              | No. of Complaints | Per cent of Total | No. of Complaints | Per cent of Total |
| <b>Motor</b>                 | 276               | 97.0              | 212               | 94.2              |
| <b>Property</b>              | 0                 | 0.0               | 1                 | 0.4               |
| <b>Life/Health/Annuities</b> | 9                 | 3.0               | 12                | 5.3               |
| <b>TOTAL</b>                 | <b>285</b>        | <b>100</b>        | <b>225</b>        | <b>100</b>        |

Figure 3  
Types of Complaints Received for 2009



## DISTRIBUTION OF COMPLAINTS

The majority of the complaints received by the OFSO continued to be lodged against five insurers which accounted for 68 per cent of the complaints received. These were the same five companies against which members of the public expressed the most dissatisfaction in 2008.

In fact, in 2009, these companies registered an increase of 24 per cent in complaints in sharp contrast to the 7 per cent decline recorded in 2008. There was also a substantial increase (45 per cent) in complaints lodged against the other companies when compared with the previous year's decrease of 43 per cent.

The distribution of the complaints received is shown in Table 6 and Figure 4 below.



# REPORT ON INSURANCE COMPLAINTS

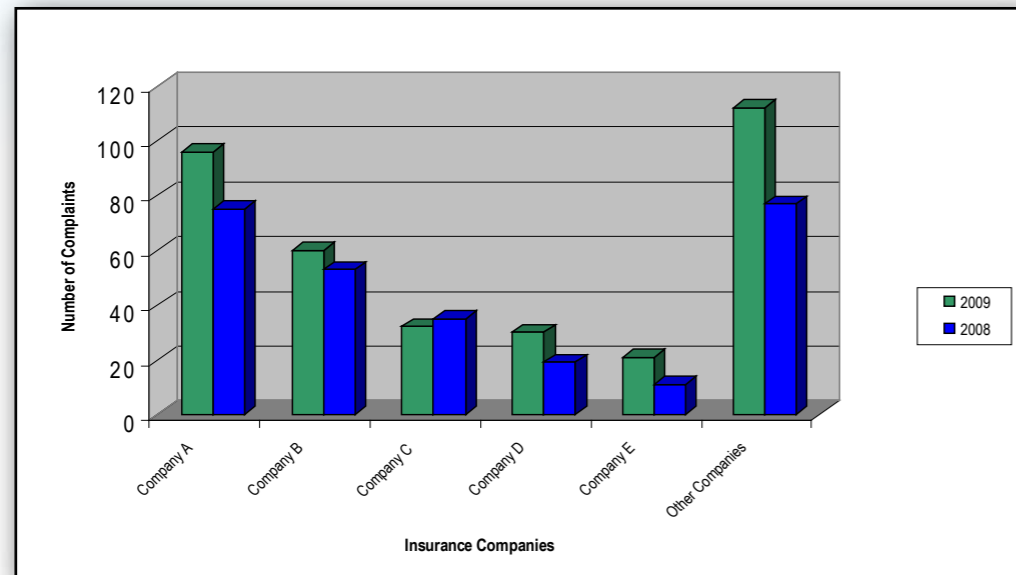
For the year ended December 31, 2009

Table 6

| Distribution of Complaints by Companies |           |           |           |           |                 |           |            |            |
|---|-----------|-----------|-----------|-----------|-----------------|-----------|------------|------------|
|   | Jan-Mar   | Apr-Jun   | Jul-Sep   | Oct-Dec   | Subtotal (OFSO) | FISD      | Total 2009 | Total 2008 |
| Company A                               | 21        | 15        | 30        | 14        | 80              | 16        | 96         | 75         |
| Company B                               | 16        | 15        | 13        | 8         | 52              | 8         | 60         | 53         |
| Company C                               | 4         | 5         | 10        | 4         | 23              | 9         | 32         | 35         |
| Company D                               | 6         | 5         | 6         | 8         | 25              | 5         | 30         | 19         |
| Company E                               | 3         | 3         | 4         | 0         | 10              | 11        | 21         | 11         |
| SUB TOTAL                               | 50        | 43        | 63        | 34        | 190             | 49        | 239        | 193        |
| Other Companies                         | 19        | 26        | 29        | 21        | 95              | 17        | 112        | 77         |
| <b>TOTAL</b>                            | <b>69</b> | <b>69</b> | <b>92</b> | <b>55</b> | <b>285</b>      | <b>66</b> | <b>351</b> | <b>270</b> |

Figure 4

Distribution of Complaints Received



## CATEGORIES OF COMPLAINTS

An analysis of the complaints processed by the OFSO in 2009 showed that customers were mostly concerned about the amount of money being offered by their insurers to settle their claims. Complaints about inadequate offers for settlement constituted the largest category at one hundred and nine (109) or 38 per cent of the total (See Table 7 and Figure 5).

Ninety-nine (99) or 35 per cent of the complaints were in respect of undue delay in the responses from insurers after the claims were lodged. Seventy-four (74) complaints, or 26%, were received from customers whose claims were rejected owing to the position of denial of liability taken by the companies.

The OFSO received three (3) complaints relating to disagreements with regard to the terms and conditions of the respective policy contracts.

Table 7

Categories of Insurance Complaints

| Categories      | No. of Complaints |            | Per cent of Total |            |
|-----------------|-------------------|------------|-------------------|------------|
|                 | 2009              | 2008       | 2009              | 2008       |
| Inadequate      | 109               | 84         | 38                | 37         |
| Undue Delay     | 99                | 77         | 35                | 34         |
| Denial Of Claim | 74                | 58         | 26                | 26         |
| Other           | 3                 | 6          | 1                 | 3          |
| <b>TOTALS</b>   | <b>285</b>        | <b>225</b> | <b>100</b>        | <b>100</b> |

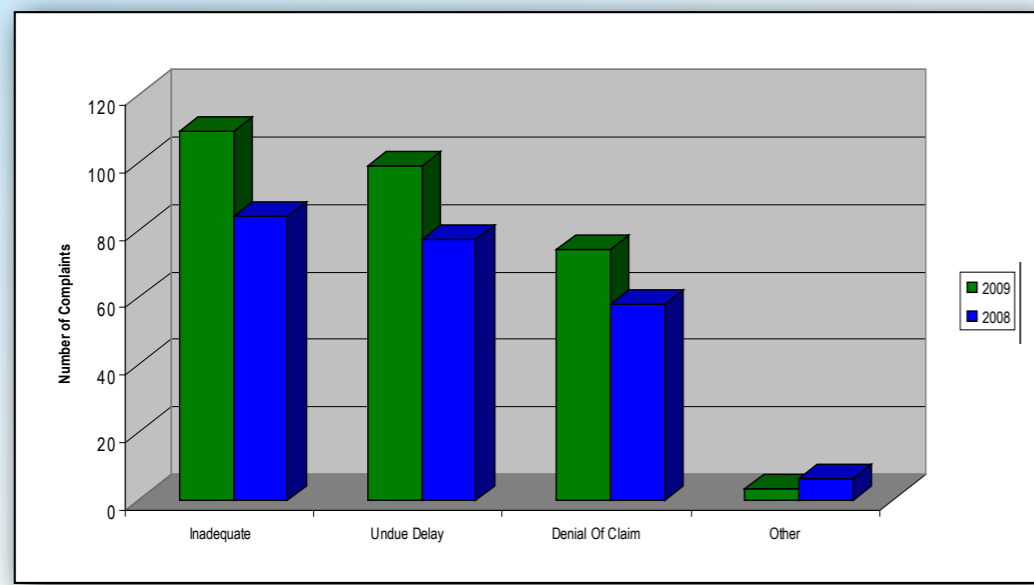


# REPORT ON INSURANCE COMPLAINTS

For the year ended December 31, 2009

Figure 5

Categories of Insurance Complaints



the OFSO. The most common reason for the withdrawals was the failure of the complainants to provide further information to support their case against the companies when requested to do so.

Complaints were also withdrawn in cases where offers for settlement were proposed by the insurers and when no responses were received from the complainants within a reasonable period of time it was assumed that the offers had been accepted. In some instances, the complainants had indicated that they were no longer interested in pursuing the matter through the OFSO and some indicated that they wished to have their disputes resolved in a court of law.

Table 8  
Resolution of Complaints

|                             | 2009              |                   | 2008              |                   |
|-----------------------------|-------------------|-------------------|-------------------|-------------------|
|                             | No. of Complaints | Per cent of Total | No. of Complaints | Per cent of Total |
| Agreement                   | 194               | 72                | 169               | 69                |
| Withdrawals by OFSO         | 71                | 26                | 67                | 27                |
| Withdrawals by Complainants | 5                 | 2                 | 6                 | 3                 |
| Others                      | 0                 | 0                 | 3                 | 1                 |
| <b>TOTAL</b>                | <b>270</b>        | <b>100</b>        | <b>245</b>        | <b>100</b>        |

## RESOLUTION OF COMPLAINTS

### A. How Complaints Were Resolved

During the year the resolution success factor remained favourable at above 80 per cent despite the substantial increase in complaints. Indeed, the OFSO was able to facilitate the resolution of two-hundred and seventy (270) complaints against the insurance companies.

Further analysis showed that one hundred and ninety-four (194) complaints, or 72 per cent of these were resolved by agreement between the complainant and the company. The remaining 28 per cent, or seventy-six (76) complaints, were withdrawn from further consideration by

### B. Time Taken to Resolve Complaints

In 2009 there was an overall improvement in the time taken to resolve complaints. The majority (175 or 65 per cent) were resolved within a period of ninety days from the date of the lodging of the complaint. This compared favourably with 2008 when only 145 or 59 per cent were resolved in the same period. The most significant improvement was recorded for complaints resolved in excess of 120 days where forty-one (41) complaints or 15 per cent were resolved when compared with the 63 or 25 percent resolved in the same period in 2008.

# REPORT ON INSURANCE COMPLAINTS

For the year ended December 31, 2009

Table 9  
Resolution of Complaints

| Resolved Within               | 2009                 |                   | 2008                 |                   |
|-------------------------------|----------------------|-------------------|----------------------|-------------------|
|                               | Number of Complaints | Per cent of Total | Number of Complaints | Per cent of Total |
| 30 days of receipt            | 22                   | 8                 | 29                   | 12                |
| 31-60 days of receipt         | 58                   | 22                | 58                   | 24                |
| 61-90 days of receipt         | 95                   | 35                | 58                   | 24                |
| 91-120 days of receipt        | 54                   | 20                | 37                   | 15                |
| More than 120 days of receipt | 41                   | 15                | 63                   | 25                |
| <b>TOTALS</b>                 | <b>270</b>           | <b>100</b>        | <b>245</b>           | <b>100</b>        |

## COMPLAINT DEMOGRAPHICS

The OFSO is desirous of improving the analysis of complaints in an effort to widen the accessibility of the services offered to customers. As such, the Office has introduced an analysis of complaints received according to the location, age and gender of complainants.

### Location

Based on information provided by complainants, Trinidad and Tobago was divided into the following six (6) regions. See map (Figure 6). The analysis shows that most of the complaints in 2009 i.e. 67 per cent of the complainants were concentrated in the East, South and Central regions and this may be attributed to the OFSO's presence at the several expositions held in those areas during 2009.

### Age

Complainants were placed into three groups.

|                 |                |
|-----------------|----------------|
| Younger than 25 | 4 complaints   |
| 26 to 50        | 184 complaints |
| 51 and over     | 94 complaints  |

### Gender

Complainants were placed into two groups.

|        |                |
|--------|----------------|
| Male   | 208 complaints |
| Female | 74 complaints  |

N.B. Three(3) complaints were received from small businesses

Figure 6  
Complaint Demographic Map





# REPORT ON INSURANCE COMPLAINTS

For the year ended December 31, 2009

## OUTREACH PROGRAMMES

The year 2009 was an eventful year for the Office of the Financial Services Ombudsman with respect to the outreach efforts. The OFSO was involved in several projects all aimed at increasing public awareness of the service being offered by the Office.

In February 2009, the OFSO partnered with the National Financial Literacy Programme (NFLP) as a participant in a business exposition coordinated by the Arima Borough Corporation. This was the third occasion in which the OFSO had participated in such activity. Other plans are underway for participating in another business exposition in Point Fortin in 2010.

In addition, the OFSO began the publication of a quarterly newsletter in December 2008. The first issue of this periodical, *The Mediator*, included information and statistics on the OFSO's activities for the period October to December 2008. Since then, four more issues have been published, with the most recent for

the quarter ending December 31, 2009. Each issue features an editorial prepared by the Ombudsman, an overview of the complaints process, the complaints statistics for the respective quarter and lessons learnt from examples of cases handled by the OFSO.

The Financial Services Ombudsman also made guest appearances on radio and television programmes, made presentations on the Role of the Ombudsman to special interest groups and was featured in interviews which were carried in the newspapers.

Several advertisements were placed in the daily newspapers and there was also the publication of a new brochure with information on the mediation services now being offered to members of the public who are customers of the non-bank financial institutions (NFIs). The OFSO's restructured website ([www.ofso.org.tt](http://www.ofso.org.tt)) was launched in May 2009 and is now designed to make it more user friendly to the public.

Perhaps the most notable outreach effort was to the residents of Tobago. In April 2009, the OFSO extended its operations to Tobago and the staff began making regular visits to the island to receive complaints from members of the public against the banks and insurance

companies operating there. Visits to Tobago are generally on Wednesdays to meet with the public at the Glen Road office of the Division of Finance, Enterprise Development and Co-operatives of the Tobago House of Assembly.

For the period April to December 2009, eighty-seven (87) Tobago residents sought the assistance of the OFSO for the resolution of their disputes or requested clarification on certain matters. The issues brought before the OFSO by forty-four (44) persons, or approximately 50 per cent of those who visited, met the criteria for assistance under the Terms of Reference of the Financial Services Ombudsman Scheme. Nineteen (19) of these disputes however were considered official complaints and were investigated by the OFSO while twenty-five (25) complaints were resolved by the Office on an informal basis.

The remaining matters brought by forty three (43) persons fell outside of the jurisdiction of the Financial Services Ombudsman Scheme. Nevertheless, the staff members of the OFSO were able to direct all these complainants to the appropriate agency for assistance.

The feedback from both members of the public and the financial institutions has been encouraging and confirms the need for the OFSO's presence in Tobago.



OFSO staff at Point Fortin Exposition

OFSO staff at Arima Exposition

OFSO Tobago Office, THA Compound, Glen Road, Scarborough



# REPORT ON INSURANCE COMPLAINTS

For the year ended December 31, 2009

## CONCLUSION

The OFSO acknowledges the cooperation of all its participants in responding to its requests for information in a more timely manner as this resulted in the significant improvement in the resolution process. Customer complaints will always be a part of the system but it is important to note that complaints can redound to the benefit of the institutions with respect to fuelling the improvement in standards and conduct. The resultant effect therefore will be greater consumer confidence and market integrity.

Finally, the hard working staff of the OFSO must be commended for their dedication and commitment in ensuring that customers' complaints were continuously handled in a humane and efficient manner despite the significant increase in complaints received. Their patience and resolve were quite evident when faced with frustrated customers.

## Annual Meeting 2009



Ms. Narine, Financial Services Ombudsman, greets one of her guests



A cross-section of the audience



Selwyn Trim, Assistant Manager, OFSO, giving the Vote of Thanks.

## Case Studies

## Case Studies

# INSURANCE COMPLAINTS

For the year ended December 31, 2009

### MOTOR CLAIM DENIED ON THE BASIS OF FRAUD

Mr. G's car was being driven in the Port of Spain area by a friend of his and was involved in a four-car collision at an intersection controlled by traffic signals. He filed a claim with the insurer of the vehicle which he believed was responsible for the accident. He was advised by the company that they were unable to pay his claim, since their investigations revealed that the insurance certificate for the car driven by the allegedly negligent driver was obtained through fraudulent means. To all intents and purposes, therefore, there was no insurance cover at the time of the accident.

Mr. G was not prepared to accept the explanation given by the company and visited the Office of the Financial Ombudsman to lodge a complaint.

Upon review of all the information presented by the insurance company, the OFSO was of the view that the company was within their rights to deny liability for payment of the claim and advised him accordingly. The complainant presented no further evidence to support his case against the insurer. The complaint was deemed to be without merit and was withdrawn.

### THIRD PARTY MOTOR CLAIM

Mr. Z. was driving his car along the Blanchisseuse Road, when he saw another car approaching from the opposite direction. There was an obstruction in the roadway on the side of the road occupied by the other vehicle. He brought his car to a standstill; nevertheless the oncoming vehicle came across the roadway and collided with his vehicle. He submitted a third party claim to the other driver's insurance company seeking compensation for the damage to his vehicle.

After several months, the insurance company failed to settle Mr. C's claim and he then sought the assistance of the Office of the Financial Services Ombudsman to resolve the matter. The Ombudsman office notified the company of the details of the complaint. The company was of the view that both drivers had contributed to the accident and therefore offered a settlement on the basis of "50-50 contributory negligence. Mr. C was advised of the insurance company's position and did not accept their offer.

The Ombudsman office reviewed the reports and information submitted by both parties and, in addition, obtained professional advice and opinions on this case. It was concluded that Mr. C did not contribute to the accident in any way and that the insurance company's insured should accept 100% liability. This was communicated to the insurance company and they were asked to review the claim. However, they maintained their position. In order to have the matter resolved, the Financial Services Ombudsman, as permitted under the Terms of Reference of the Financial Services Ombudsman Scheme, made an award to Mr. C. The award was paid by the insurer.





## Case Studies

# BANKING COMPLAINTS

For the year ended December 31, 2009

### ENCASHMENT OF FRAUDULENT CHEQUES

Mr. C. was a business man and during the course of conducting business he received several cheques which totalled eighteen thousand dollars (\$18,000.00) from one of his clients. He went to his bank and was able to cash the cheques. On a subsequent visit to the ATM, Mr. C discovered that the amount available for withdrawal from his account was less than the account balance by the amount of the value of the cheques.

The bank explained to the customer that since the cheques that were cashed were regarded as “uncleared effects” a hold or lien had been placed a on his account in the amount of the value of the cheques.

Mr. C was not happy with this action taken by the bank and brought the matter to the Office of the Financial Services Ombudsman for a resolution of his dispute.

The OFSO was subsequently advised by the bank that its investigations had revealed that the signatures on the cheques may have been forged by a third party since the holder of the chequing account denied having issued any of the cheques. The bank also referred the matter to the Fraud Squad of the Police Service and a suspect was later charged with fraud. The matter is now before the court.

The OFSO informed the complainant that the encashment of the cheques was done in good faith and that it was the bank’s prerogative to put a hold on his account until the cheques were cleared. After reviewing the circumstances surrounding this complaint the OFSO concluded that the bank was fair and reasonable in the action taken to recover the funds. The complainant was advised that he must await the outcome of the investigation of the matter by the relevant authorities.

In the event that the cheques were proven to be fraudulent, his only legal recourse would be against the individual or firm that benefited from his service or product which was purportedly paid for by the cheques.



### DISCLOSURE OF PIN

Ms. M was reconciling her bank statement when she discovered that there were two withdrawals from the account that she could not identify. She subsequently visited her bank to make enquiries regarding these unauthorized withdrawals. The bank checked their records and indicated to Ms. M that both withdrawals had been made through ATM transactions.

Ms. M advised the bank that on a previous occasion, when she was unable to use her card she had given it to her daughter to withdraw funds. However, she maintained that these specific withdrawals were not authorized and requested a full refund.

The bank agreed to investigate the matter further and told the complainant that they would advise her of their findings. After several unsuccessful attempts to get her matter resolved, Ms M brought the matter to the attention of the Office of the Financial Services Ombudsman for assistance.

After a review of Ms. M’s case, the OFSO held discussions with the bank regarding the complainant. In response, the bank indicated that they could not be held responsible for Ms. M’s losses since there was a clear breach of the Card Agreement by the complainant. As a result, she would not receive a refund of the monies lost. In support of their position, the bank submitted a copy of card Agreement outlining the conditions of use of the card. They made specific reference to the provisions which stated that:

- The Cardholder shall not allow any other person to use his/her Card and PIN and will be responsible for the care and safe preservation of both Card and PIN, and,
- The Cardholder will be liable for all indebtedness resulting from the use of the Card by any other person using the Card with the express or implied consent of the Cardholder.

The Ombudsman’s office held the view that based on the information submitted by the bank, they were acting in accordance with the Agreement. Ms. M, by her own admission, disclosed her PIN to her daughter and in was in breach of the cardholder agreement. The OFSO upheld the position taken by the bank and wrote to Ms. M advising her accordingly. The Office was unable to pursue the matter further and her file was closed.



# CUSTOMER FEEDBACK

“I wanted to thank you and your office for interceding for us, it may not have turned out how we expected but we are also aware if we did not take it to you all we will be completely empty handed...

I will be very happy to recommend you all to some people...

God bless you and your entire team”

“I wish to thank your Office for its swift and effective attention, intervention and pursuit of this matter on my behalf and look forward to having it brought to final settlement in the not-too-distant future”.

“With regards to the complaint against XYZ Insurance Company Limited, I wish to inform you that I am willing to accept the payment...and I did sign the agreement to that.

I would like to say a heartfelt thank you for your assistance in this venture”

“I would like to inform you that XYZ Company has settled my claim...I also take this opportunity to thank you and your staff sincerely for your hard work and sympathy. If not for your efficient service, I know I would still be battling with this company...It was a pleasure to deal with you and once again I say thank you”

“Dear Sir/Madam

Thank you kindly for responding so promptly to my request for assistance re the settlement of insurance claim on my motor vehicle. The insurance company made a new offer for settlement which I accepted. This then should bring closure to this matter. I wish to thank you most sincerely and may God continue to bless you as you carry about your duties”