



CENTRAL BANK OF  
TRINIDAD & TOBAGO

**Feature Speech**  
**2014 Annual Breakfast Meeting**  
**Office of Financial Services Ombudsman (OFSO)**

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Governor  
Central Bank of Trinidad and Tobago

Good morning,

How often do we hear consumers say, “I did not know what I signed”? This is a very common problem and it is surprisingly easy for decent, responsible people to unwittingly get themselves into financial trouble. If someone has co-signed a loan, for example, they do not always realize that they may have to end up repaying the debt of their friend or family member. They may not even be aware if their personal data has been sold to a third party, and identity theft is becoming more prevalent.

Consumer protection is important for the stability of the financial sector. The experience of the United States shows that, where financial markets have developed a high level of innovation and growth in retail financial services, special attention should be paid to issues of consumer protection and financial literacy.

As former US Treasury Assistant Secretary for Financial Institutions Michael Barr noted, “The consumer protection regime could not stem a plague of abusive and unaffordable mortgages and exploitative credit cards, despite clear warning signals. It cost millions of responsible consumers their homes, their savings and their dignity. And it contributed to the near collapse of the financial system.”

Retail consumers operate in a marketplace where imbalances of power, information and resources are on the side of financial institutions. At its heart, consumer protection seeks to

address this imbalance. Consumer protection should give consumers accurate information in simple, plain and comparable language before they buy a financial service or product. Consumer protection is meant to give consumers access to a fast, inexpensive and efficient mechanism for resolving disputes with financial institutions....and consumer protection seeks to give consumers financial education when they want it and in the form they want it.

However, we must not be deluded. Improved consumer protection and financial literacy can identify preventative measures to help avoid some of the worst financial consumer abuses. But they are not “silver bullets” to solve all problems in consumer finance.

Here in Trinidad and Tobago, household use of financial services has been rapidly rising in recent years. Consumer debt stood at \$25 billion in 2013, up from \$19 billion in 2009. Mortgage debt rose still more rapidly, from under \$7 billion in 2009 to over \$10 billion in 2013. Credit cards in active circulation are currently running at almost 200 thousand cards, while consumer credit card debt stands at around \$2 billion. At the same time, households have increasingly become more responsible for funding their own pensions while buying insurance policies and investing in securities and mutual funds. Households are also heavy users of remittances which averaged US\$100 million in the past decade.

This rapid growth of household use of financial services over the past few years has been accompanied by an increase in the number of households that have difficulty in understanding the risks and obligations that they assumed – or even the full range of choices available.

Ladies and Gentlemen, at last year's Annual Breakfast Meeting, I indicated that the Central Bank and the Office of the Financial Services Ombudsman (OFSO) had commissioned Mr. David Thomas to prepare a report on upgrading Trinidad and Tobago's existing regime of financial consumer protection, in line with international best practice. David Thomas had previously served as Chairman of the International Network of Financial Services Ombudsman Schemes and was the Chief Ombudsman of the Financial Ombudsman Service in the United Kingdom.

I also indicated that once we accepted the report, it would form the basis for a Proposed Policy Document (PPD) on upgrading the regime of financial consumer protection. I am pleased to announce that Mr. Thomas submitted his Final Report, entitled "**Financial Services Ombudsman in Trinidad and Tobago: A Strategy for the Future,**" and this report was accepted by the Central Bank and the OFSO. We now have a Draft PPD as the starting point for initial discussions and consultations with key stakeholders in the financial services industry.

The Draft PPD explores and details the statutory creation of a financial ombudsman scheme with its foundation enshrined in law. The Draft PPD takes the following into account:

- Developments in financial markets;

- International best practices in financial consumer protection, especially the World Bank's Good Practices for Financial Consumer Protection and experiences from seven (7) Commonwealth countries with legal FSO frameworks;
- The Terms of Reference Agreements between the OFSO and its participants; and
- The first ten (10) years of the OFSO's existence and experiences.

Please allow me to elaborate on what I consider to be some of the main legislative proposals in the Draft PPD.

Perhaps the first and most critical legislative proposal relates to changing the voluntary nature of the Financial Services Ombudsman regime to one under-pinned by legislative authority. Under the present voluntary system, if there is an emerging issue that can only be dealt with by amending the Terms of Reference agreements, the support of all members has to be sought and received. Experience has shown that this is a difficult feat to accomplish. In fact, in one particular instance, all but one of the 46 participants in the Scheme supported a particular issue. As a result, the matter remained out of the jurisdiction of the OFSO.

The Draft PPD proposes to establish in law a Scheme known as the Office of the Financial Services Ombudsman (OFSO). The OFSO will be an **independent** body corporate headed by the Financial Services Ombudsman who will have various powers and duties. The Scheme shall be the only Alternate Dispute Resolution Scheme approved by the Central Bank for institutions regulated under the Financial Institutions Act and the Insurance Act. In other words, as long as a financial institution is regulated by the Central Bank, it will be mandatory for it to be part of the

Scheme. Under a mandatory system enshrined in law, Parliament would be approached in order to effect any change through an amendment to the legislation.

Governance is the second, critical legislative proposal. Ideally, the Office of the Financial Services Ombudsman should be independent of consumers and of the financial services industry, whose disputes are being handled. In deciding cases, the Ombudsman also needs to be independent of the Central Bank, because the Ombudsman is acting as an alternative to the courts. So it is helpful for the Ombudsman Office to have an independent board, with a balanced membership reflecting persons with an understanding of regulation, the financial industry and consumer protection.

The Draft PPD recommends that the Board be appointed by the Governor of the Central Bank for a period of three (3) years. The Board shall comprise five (5) Directors: a Chairman and four (4) other Directors with understanding in regulation and financial consumer concerns. It is advised that Directors should be fit and proper.

Specifically, the composition of the Board should include:

- Two independent Directors;
- One Director with understanding of financial regulations;
- One Director with understanding of financial service providers concerns; and
- One Director with understanding of consumer concerns.

Regarding the Chairman, the Draft PPD recommends that the Chairman be one of the independent Directors. Apart from being knowledgeable in financial matters and well respected

in the financial community, it would be desirable if the Chairman of the OFSO is a retired Judge or a distinguished legal mind and a certified mediator in civil, non-family matters.

The role and function of the Board would be to take a strategic overview and ensure that the OFSO is properly resourced and able to carry out its work effectively and independently. As such, the Draft PPD recommends that the Board will have no role with respect to how the Financial Services Ombudsman or the Scheme deals with a particular complaint.

The work of the Board shall be reflected and reported in its Annual Report. The Report shall be presented to the Governor who, in turn, will submit it to the Minister with responsibility for Finance and who would be accountable for laying the Annual Report in Parliament.

The Draft PPD also deals with the appointment, tenure and termination of the Financial Services Ombudsman.

The Financial Services Ombudsman shall be:

- The Chief Executive Officer of the Scheme;
- Equal in status to the Inspector of Financial Institutions; and
- Entrusted with day-to-day management, administration, direction and control of the business of the Scheme.

The Draft PPD recommends that the Board appoint the Financial Services Ombudsman for a period not exceeding five (5) years, and the FSO shall be eligible for reappointments for further periods of three (3) years at a time. The Board may appoint a Deputy FSO to support the work of the Ombudsman Scheme.

A third legislative proposal revolves around the coverage of financial businesses. The voluntary nature of the Ombudsman scheme has restricted the jurisdiction of the Office to a narrow list of complaints to which banks and insurance companies have agreed. However, a substantial number of complaints received by the Ombudsman are outside its Terms of Reference.

For banking and insurance matters, the Draft PPD recommends that the OFSO consider in three broad cases. These areas are as follows:

1. There has been maladministration in reaching a commercial judgment, opening or closing account, issuing/renewing a policy, or handling a claim;
2. There has been alteration (without a legitimate reason that is set out in the relevant contract) of an interest rate, charges, or the terms of the contract; and
3. There has been provision of misleading advice or documents.

The Draft PPD recommends that the FSO shall have no power to consider complaints in several cases. These are as follows:

- A practice or policy of a financial institution that does not itself give rise to breach of any obligation or duty owed by the institution to the Complainant;
- A financial institution's general interest rate policies and pricing of products and services;

- Risk policies;
- Investment rates;
- Credit decisions;
- Personal injury claims arising out of a motor vehicle accident;
- Matters barred by law including time-barred matters;
- A claim where the amount is more than \$1 million in respect of first party matters and \$1 million in respect of third party property damage under a motor policy;
- A matter that may be before the Court or another arbitration body; and
- The dispute would be more suitably dealt with by the Court or another body.

Finally, in order to deliver on this expanded mandate the OFSO would need to be better resourced with the skill sets and talent as its jurisdiction and workload grows. The staff complement in the Ombudsman's Office are currently seconded from, or approved by, the Central Bank. The Draft PPD recommends that once a statutory Office of the Financial Services Ombudsman is established the Ombudsman will have the power to recruit, employ and appoint staff necessary for the proper functioning of the Scheme. The present staff will have the option to choose whether they will remain with the Central Bank or they will be transferred to the legislated OFSO.

Ladies and Gentlemen, the Office of the Financial Services Ombudsman will soon embark on consultations with key stakeholders to obtain their views on these and other proposals contained

in the Draft PPD. Subsequently, the PPD would be revised to form the basis for legislative changes.

In concluding, I would like to congratulate Ms. Suzanne Roach, the Financial Services Ombudsman and her staff for their achievements over the past year. I would also like to thank BATT, ATTIC and the THA for their continued strong support for the Ombudsman scheme.

I certainly look forward to your active participation in the upcoming consultations so that the Office of the Financial Services Ombudsman assumes a more prominent role in the country's consumer protection regime in the next few years.

I thank you.