

THE

Mediator

A Publication of the Office of the Financial Services Ombudsman

MARCH 2009 • ISSUE #2

CUSTOMERS, BE AWARE, BEWARE!

In this issue of the Mediator, the focus is on how careful the consumer should be when faced with a financial crisis. It is also important that the customer is aware that during these times the element of fraud is heightened and we at the OFSO have seen more complaints of this type. As a result, we have selected a case study of an actual occurrence of alleged fraud to help you the customer understand the need to be ever vigilant when conducting financial transactions.

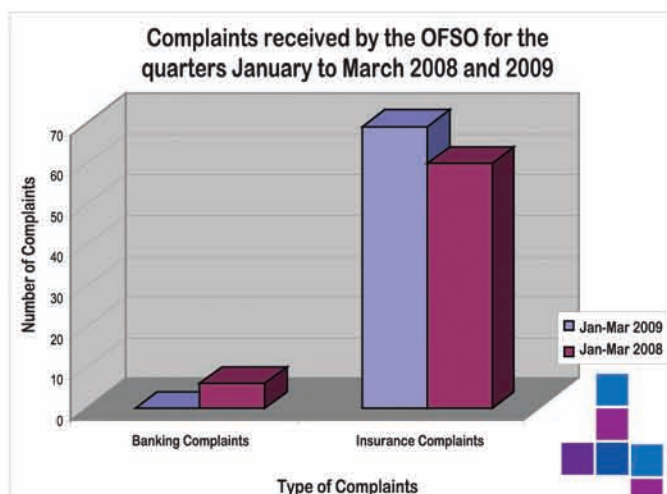
During the first quarter of 2009, the global financial crisis came to our doorstep when our financial system experienced some turbulence with the failure of one of our financial institutions. Needless to say, customers expressed their anxiety to us at the OFSO but regained their confidence once they understood that their funds were protected. It is however important to emphasize the need for all of us to act responsibly during a crisis so that we do not make the wrong decisions.

The following tips are intended to help you the customer survive a financial crisis:

- Spend less than you earn as it allows you to be better prepared for unexpected expenses or any major changes in your life that would reduce your income, such as losing your job.
- Keep track of what you spend to ensure that your expenses are not exceeding your income. Be aware that even though you may be experiencing small cash flow problems monthly, you will need to make important changes before it leads to a full blown crisis.
- Save regularly, even a small amount at a time since this will give you a cushion to fall back on should any unexpected expenses occur. Find ways to save on the things that you spend money on every day. These may include buying food in bulk and comparing the prices of goods at various vendors before you purchase.
- Pay your bills on time to avoid paying late fees. If you are unable to pay your bills in full, call before you fall in arrears, explain your situation and try to negotiate for an affordable payment, until things get better.

It is also crucial that you ask the relevant questions before making an investment such as: Is this financial institution or individual registered with the Security and Exchange Commission or the Central Bank? You can check for this information on the relevant websites (www.central-bank.org.tt) and www.ttsec.org.tt) for a listing of all registered companies and individuals or contact the relevant institution. Due care and eternal vigilance must be exercised when investing your hard earned funds.

From the standpoint of our member institutions, we at the OFSO encourage them to listen to complaints from customers and to respond in a timely manner. We believe this will promote greater confidence and stability in our financial system. Commitment from all the stakeholders involved is therefore necessary for a strong financial sector.



Common Frauds and Scams ... how to protect yourself

Anyone can fall victim to a fraudulent scheme or con game if they do not exercise prudence before entering into any type of financial arrangement or contract. Certain groups of persons such as the elderly or job seekers may find themselves targeted by fraudsters.

Some typical types of financial frauds are:

• Investment Fraud

Senior citizens are particularly susceptible to these types of schemes which may involve the selling of coins, gemstones and precious metals. The fraudster will flatter his intended victim as a "smart investor" who can recognize a good deal and try to entice him to sign up for the investment quickly so as to get in on the 'ground floor' of this 'great opportunity'. Beware of such persons as they are specially trained to get people to believe them.

When someone calls with a 'golden' investment opportunity, get the name, address and contact

number of their company. Request references and written material. Always read any forms before you sign.

• Travel Scams

These types of con games are usually perpetrated on persons via the internet. You may receive an email from a travel club that announces that you are the grand prize winner of a contest. You are then told that in order to redeem your prize you must pay a membership fee to the travel club, normally using your credit card. However, once the fraudster obtains your credit card number they can use it to make purchases and pay for services.

The best way to defend yourself against these types of scams is simple – do not respond to the email. Do not give out your credit card information when online unless you are certain that the website is legitimate.

• Stolen Cheques

Another area where elderly persons can be targeted is the theft of cheques e.g. pension cheques from their mailboxes. These type of cheques are normally delivered around the same time every month so that fraudsters know just when to target their victims. The stolen cheques are easily turned into cash by the thieves who know where to go and what to do.

Where you receive regularly scheduled payments you may wish to consider having them credited to your bank account by direct deposit. Contact your financial institution to see what types of payments may qualify for this type of treatment.

(Information courtesy of The Federal Reserve Bank of San Francisco, www.frbsf.org)

POLICY VOIDED BECAUSE OF FALSE DECLARATION MADE BY PROPOSER


Mr. H took out a policy on his life and named his wife, Mrs. H as the beneficiary. Three years later, the insured died and Mrs. H filed a claim with his insurance company. In keeping with normal claims practices and procedures, the insurer launched an investigation and advised the widow that she would be notified of their decision pending the outcome of their inquiries. Eight months later, Mrs. H was still unable to get a decision from the company regarding the status of her claim. Frustrated at the delay, Mrs. H lodged a complaint against the insurer with the Financial Services Ombudsman.

After reviewing Mrs. H's complaint, the Ombudsman wrote to the company enquiring as to the reason for the delay in settling the claim. The company responded saying that their investigations revealed that the insured, Mr. H made a false declaration on his Proposal Form and they would be denying the claim. To support this position, they submitted to the Ombudsman's office, copies of said Proposal form and other relevant documents.

Under the terms and conditions of the policy contract, and although the contestability period had passed, the company was entitled to void the policy, since the insured had made a false statement on the Proposal form, by not disclosing a pre-existing condition. Therefore no benefits were payable under the policy and Mrs. H would only receive a refund of the premiums paid without interest.

Having examined both sides of the case carefully, the Ombudsman upheld the decision given by the company and notified the complainant accordingly.

Lesson of the Case:



When applying for insurance, the burden of truth is upon the applicant (the proposer). Prospective insured persons are required to disclose all material facts that may affect an underwriter's decision and must be honest and truthful in answering the questions on the proposal form. This insurance principle is called 'utmost good faith' and a greater burden to 'tell all that he knows' rests with the proposer. Failure to do so can cause the policy to be voided at the time of a claim, should the insurer discover otherwise

Complaints Process

Scope of Services

The OFSO can consider matters relating to a wide range of products and services offered by the banks and insurance companies. Generally, we will investigate issues such as:

- | | |
|--|---|
| Banks | Insurance |
| <ul style="list-style-type: none">• Deposit Accounts• Loan Accounts• Investment Services• Trust Accounts• Mutual Funds | <ul style="list-style-type: none">• Life policies• Individual Annuity contracts• Fire and general insurance• Third Party Property Damage claims to a maximum of \$ 25,000.00, under a Motor Policy |

Complaint Guidelines

Before the Ombudsman office can accept a complaint, the following guidelines should be considered:

- The matter must have first been referred to the institution at which the complaint arose and the complainant is still not satisfied with the outcome.
- The subject of your complaint must have first occurred on or after January 1, 2003 in the case of a banking complaint and after January 1, 2004 in the case of an insurance complaint.
- The complaint must not be related to the institution's general risk management policies, general rate of interest offered, or the pricing of products and services, such as premium rates, fees and charges.
- The matter must not currently be or have been before the courts or an arbitration body or any other dispute resolution process.

Making a Complaint

- The complaint must be in writing on the prescribed form. (Forms available at our offices or can be downloaded via our website).
- The form must be signed by the Complainant and the authorized representative, if necessary.
- It must state the names and addresses of both the Complainant and the branch of the bank or insurance company.
- The facts pertaining to the complaint must be supported by any relevant documents. Also, you should include the nature and extent of the loss suffered and the relief being sought from the OFSO.

Resolution of Complaint

The Ombudsman Office will assess your complaint to determine whether it falls within its terms of reference. Thereafter, all attempts are made to settle the dispute by agreement between the two parties, that is, yourself and the financial institution.

If no agreement is reached, then a full investigation is launched into the matter leading to the making of a **recommendation** or finally to an **award** by the Ombudsman to settle the matter.

The complainant does not surrender his/her legal rights and is free, at any time, to explore other options for the resolution of his/her complaint including taking the legal action. In this case the OFSO will consider the matter closed at that stage.

CHEQUE FRAUD

The complainant, Ms. M responded to an advertisement in the newspaper for a part-time job. The job would entail the complainant receiving cheques from a source outside of Trinidad and Tobago, which she would deposit into her bank account and after the funds were cleared, (a process that takes 6 weeks), she would then forward 90% to a third party, keeping for herself, a commission of 10%. Since the complainant believed this arrangement to be legitimate, she received and deposited the first cheque.

To her surprise, the funds were credited to her account within a few days. She then withdrew and forwarded the required amount to the third party. She received and repeated the process with a second cheque. The complainant then received a third cheque but became suspicious given the frequency with which the cheques arrived. She called the bank and notified them of the situation.

The Bank investigated the matter and Ms. M was advised that she would be responsible for the payments made from her account given that the required 'holding' time for the cheques had not yet passed. Further, the bank was inclined to bring the matter to the attention of the authorities for criminal investigation. At this point, the complainant brought her case to the Ombudsman for assistance.

The Ombudsman's office reviewed the information submitted by the complainant. However, it soon became apparent that Ms. M was the victim of an international cheque fraud scheme which she unwittingly participated in. The Ombudsman did agree with the bank that the complainant would be liable to repay the bank the funds which she forwarded from her account.

Lesson of the Case:

This case serves to highlight the need for persons to exercise extreme vigilance when receiving money or accepting payment from unknown or anonymous sources. The bank relies on its customer to enter into transactions that are legitimate and with persons or vendors who are known to them or who can be easily identified and traced if required.

Further, opportunities of this nature which appear to be too good to be true often are.

Helpful Hints Corner

'When it sounds too good, it may be too good to be true!'

Financial Institutions often use aggressive advertising campaigns to promote their products. If an advertisement seems too good, it may indeed be too good to be true and there may be a catch to it. Check it out **carefully** before getting caught in the hype – usually the fine print will tell you the conditions attached. Enquire with the financial institution of the conditions attached and make sure you are comfortable with them. Take your time and don't be in a hurry to sign on the dotted line!