

## Response to Public Consultation on FIDReC’s Terms of Reference

1. On 8 January 2024, the Financial Industry Disputes Resolution Centre Ltd (‘FIDReC’) issued a public consultation paper on proposed changes to its Terms of Reference as follows:

- a. The increase of the award limit from \$100,000 to \$150,000.
- b. Including small businesses as eligible complainants.
- c. Allowing the circulation of the Grounds of Decision.
- d. Fixing timelines for process completion.
- e. A Mediator’s Indication process for non-NIMA disputes.<sup>1</sup>
- f. Amendments to the list of Excepted Complaints.
- g. Timelines to refer to business days instead of calendar days.

2. The proposed changes were meant to better reflect the current landscape, especially the nature of financial disputes that have evolved over the years. They also allowed FIDReC to address feedback it had received over time and incorporate international best practices.

3. The consultation closed on 29 February 2024 and FIDReC received 55 responses from 34 Financial Institutions, 13 individuals, 3 financial industry associations and 4 other associations. There was 1 anonymous response. FIDReC thanks all the respondents for their feedback. A list of the respondents may be found in **Annex A**.

4. The feedback received is summarised below along with FIDReC’s response.

### A. Increase of the award limit from \$100,000 to \$150,000

Feedback	Response
<p>Almost all respondents agreed with the proposal, commenting that it was warranted given the increase in cost of living. Two respondents were supportive of raising the claim limit beyond the proposed \$150,000 amount, with one such respondent favouring having such financial disputes avoid the State Courts. Some respondents while supportive cautioned that any increase should be incremental.</p>	<p>Given the broad support from both the industry and consumers for the increased claim limit of \$150,000, FIDReC will move forward with implementation of the increased claim limit. We will continue to monitor the trends in claim value and are open to further reviewing the limit again in the future.</p>
<p>A few respondents shared that higher value claims may indicate that claims are brought by more affluent consumers who are possibly Accredited Investors. These should not be the primary focus of FIDReC’s services. One respondent was concerned that disputes with higher claim values may involve a higher level of complexity and thus unsuitable for informal dispute resolution without legal representation.</p>	<p>FIDReC provides an avenue for eligible Complainants (as defined in the Terms of Reference) to resolve their disputes with their financial institutions in an amicable, effective, confidential and fair manner. Although there is presently no claim limit at mediation, we note that the median claim amount was \$5,912 in our Financial Year ending 30 June 2023. This shows that FIDReC’s services are generally used by retail consumers.</p>

<sup>1</sup> ‘NIMA’ refers to non-injury motor accident third party claims.

	Complainants who require legal representation may choose to pursue their claims in the courts or other avenues.
Some Financial Institutions shared that the increase in adjudication limit would affect their risks and resources and in turn operating and business cost.	This may be so, but overall, we expect that the increase in adjudication limit would be beneficial to all parties as the FIDReC process is more cost-effective compared to legal remedies.
One respondent suggested that the increased limits should only be applied to disputes where the breach or event occurred on or after a particular date.	We recognise the underlying concern behind this suggestion is to avoid an influx of complaints for amounts exceeding \$100,000 even though the disputed event had happened some time ago. This concern is addressed by existing time limits for a Complainant to file a dispute in Rule 13(1)(ii) of the Terms of Reference (within 6 months of the final reply from the Financial Institution) as well as the relevant statutory limitation period.  Additionally, the new claim limit will be applicable to disputes filed at FIDReC on or after 1 Jul 2024.
A few respondents requested clarification on what constitutes a "claim" as this would affect the total claim limit for an individual who could bring multiple claims.	FIDReC will be issuing a Guidance Note to assist the parties in understanding how FIDReC considers the issue of what constitutes a "claim". This will depend on several factors including the nature of the claim, the type and number of financial products involved, and the legal basis for the claim. In any case, the present Terms of Reference provides that any dispute as to the number of claims can be referred to an adjudicator for determination.
One respondent asked whether there were any instances where the adjudication claim limit can be exceeded.	Rule 21(2) of the Terms of Reference provides that a claim exceeding the limit can be referred to adjudication where the Financial Institution has agreed to submit to adjudication for a higher claim amount. This provision will continue to remain.

## B. Including small businesses as eligible complainants

Feedback	Response
Most respondents agreed to the inclusion of small business. However, some respondents emphasised that FIDReC's mediators and adjudicators must be prepared to handle the added complexities that may come with small business disputes. Other	Most respondents were supportive of the inclusion of small businesses in FIDReC's dispute resolution scheme, and many have acknowledged that small businesses do need

<p>respondents expressed concerns that the inclusion of small businesses could detract from FIDReC's original focus on retail consumers.</p> <p>Nine respondents disagreed with the proposal as a small business may have more resources at their disposal and already have existing avenues of recourse. It was proposed that the Adjudicator's decision be binding on such small businesses in the interest of fairness.</p>	<p>an affordable avenue to have their complaints resolved.</p> <p>We will be proceeding with the amendment to include small businesses as eligible Complainants.</p>
<p>One Financial Institution highlighted that the increased complexity presented by small business complaints may lead to increase in costs. A few other Financial Institution respondents also shared that sufficient time must be afforded to them to operationalise the inclusion of small business into their current complaints handling mechanism.</p>	<p>Nevertheless, we understand that there were concerns around the definition of what would constitute a small business including the types of entities that this definition would cover. There were also concerns relating to the potential complexities that small business disputes may bring and whether this would detract from FIDReC's original focus.</p>
<p>On the definition of small businesses, we received the following feedback with regard to the criteria of a Small Business:</p> <ul style="list-style-type: none"> <li>i) Exclude holding companies and/or subsidiaries or, alternatively, consolidate the turnover requirements of subsidiary/holding companies within the entire group.</li> <li>ii) Consider an additional asset test.</li> <li>iii) Consider a lower threshold than \$1M annual turnover and the difficulty of proving annual turnover as at the date of the complaint.</li> <li>iv) Include other business forms such as partnerships and entities such as charities.</li> </ul>	<p>We will take additional time to study how best to address the concerns raised and implement the change at a later date, tentatively in January 2025. Further details will be announced in due course.</p> <p>We note that the intent of the amendment is to provide an accessible and affordable avenue of recourse for those who may need it. Those who can afford and wish to seek legal recourse remain free to do so.</p>
<p>Some respondents sought clarification on how the annual turnover criteria will be determined with a respondent suggesting that the criteria should be based on the previous year's financial statement.</p>	
<p>Some respondents highlighted that a \$50 adjudication fee for small business would be too low. One suggestion was for the adjudication fee for small businesses to be at least \$500 with the option to include some refund if the case succeeds.</p>	

## C. Allowing the circulation of the Grounds of Decision ('GD')

Feedback	Response
<p>Almost all respondents were in favour of circulation of the GD with one respondent in favour of going a step further by publishing decisions on the FIDReC website.</p> <p>As an alternative to circulation, one respondent suggested FIDReC could invite parties down to its office to view the GD. For the few respondents who disagreed, confidentiality concerns were cited as the main reasons.</p>	<p>Based on the strong support received, FIDReC will be proceeding with the circulation of GDs with the necessary safeguards to ensure confidentiality. FIDReC will not be publishing the GDs at this time but will continue sharing educational case studies on its website.</p> <p>The circulation of GDs will apply to all cases where the Adjudication Agreement is signed by the Complainant on or after 1 July 2024.</p>
<p>To address concerns on confidentiality some suggestions received included:</p> <ul style="list-style-type: none"> <li>i) Placing disclaimers on the GD reiterating the obligation of confidentiality;</li> <li>ii) Including a disclaimer to state that the GD does not form a precedent;</li> <li>iii) Having restrictions on printing and downloading of the GD on the FIDReC Portal;</li> <li>iv) FIDReC taking an additional step to highlight to the parties the specific circumstances of constituting a breach of confidentiality e.g. circulation over social media.</li> </ul>	<p>FIDReC has taken note of the various safeguards suggested to enhance security and confidentiality of the GD. GDs will be made available to the parties through FIDReC's secure portal. The GD will contain watermarks reminding the parties of their obligation of confidentiality. There will be restrictions on printing, amending, and downloading.</p>
<p>There were suggestions for incorporating penalty mechanisms in the event of a breach of confidentiality by a party and there was also a request for clarification on the consequences in the event of breach of confidentiality obligations.</p>	<p>The parties are free to seek recourse in the manner they deem fit in the event of a breach of confidentiality. They may also refer to Rule 32(7) of the Terms of Reference that provides for express acknowledgement and agreement from the parties in the event of any breach and / or contravention of Rule 32 (Confidentiality). Rule 32(7) further states that FIDReC reserves the right at its full discretion, to discontinue the mediation / adjudication process with immediate effect in event of any such breach and / or contravention.</p>

## D. Fixing timelines for process completion

Feedback	Response
<p>Almost all respondents agreed to the proposal for fixing timelines for process completion. However, some respondents sought clarification on the following points:</p> <p>i) whether closed cases can be reopened and what are the factors considered for such closed cases to be re-opened;</p> <p>ii) what would constitute non-compliance pursuant to Rule 18(4) of the Terms of Reference, and what would be the penalty for a such breaches.</p>	<p>Based on the strong support received, FIDReC will be proceeding with this amendment. Regarding the possibility of re-opening closed cases, this will only be done in exceptional circumstances that adequately justify the failure to comply and the failure to inform FIDReC of the inability to comply. Such exceptional circumstances could include emergencies or sudden onset of serious illness.</p> <p>i) the non-compliance will relate to the failure to comply with timelines set by FIDReC for actions to be done by the parties as part of the FIDReC process.</p> <p>ii) the penalties for non-compliance by the Financial Institution are already contained in the existing Rule 3 of the Terms of Reference. The penalty for non-compliance by the Complainant is stated in the proposal to amend Rule 18 of the Terms of Reference, i.e. closure of a case.</p>
<p>Some Financial Institution respondents highlighted that unforeseen circumstances and high volumes may lead to delays and recommended for case managers to be empowered to set appropriate timelines or have discretion to extend any deadlines.</p>	<p>We recognised that there may be situations where the parties are unable to meet deadlines. This is why the proposed amendment grants case managers discretion to extend timelines.</p>
<p>There were suggestions made in favour of both lengthening and shortening the 30-day proposed deadline for closing a case where there had been non-compliance by a Complainant. There was one suggestion to remove the discretion in imposing consequences and another suggestion for the Complainant to be given a final opportunity to respond orally or in writing before the case is closed.</p>	<p>FIDReC will maintain a one-month deadline as we are of the view that this strikes the right balance between different interests and needs. The reference to one month will avoid doubt as to whether the 30 days are based on business or calendar days. FIDReC will also maintain the discretion accorded to case managers so that exceptional circumstances can be addressed. The Complainant does have an opportunity to respond (within the one-month period) before a case is closed.</p>
<p>One respondent suggested that the obligations to cooperate with FIDReC in clauses 18(2) and 18(3) be extended to the Complainant as well to ensure transparency in the mediation process.</p>	<p>We will include reference to the Complainant in Rule 18(2) and 18(3) in the interests of parity and transparency.</p>

## E. Mediator’s Indication process for non-NIMA disputes

Feedback	Response
<p>All respondents generally agreed to including the Mediator’s Indication (‘MI’) process for non-NIMA disputes. One respondent commented that such a process would reduce litigation risks and one Financial Institution respondent shared that in their experience the MI process had been effective. There was also a further suggestion by one respondent for the MI process to proceed even if one party does not consent.</p>	<p>FIDReC will proceed to implement the MI process for all disputes. FIDReC had previously conducted a pilot for the MI process on a consensual basis and received positive response from the parties. Given the consensual nature of mediation, we will maintain this approach.</p>
<p>Some respondents sought clarification on the following:</p> <ul style="list-style-type: none"> <li>i) Would there be any additional cost associated with the MI process;</li> <li>ii) Would the Adjudicator be made aware of the determination of the MI process;</li> <li>iii) Whether the MI would be provided by the both the case manager and the appointed mediator; and</li> <li>iv) What would happen where a party does not consent to the MI process.</li> </ul>	<ul style="list-style-type: none"> <li>i) There will be no additional cost to the parties for the MI process.</li> <li>ii) The MI process is without prejudice and FIDReC will not inform the Adjudicator of the outcome of the MI process.</li> <li>iii) The MI will be provided by the appointed mediator and not the case manager.</li> <li>iv) The case will only proceed for MI if both parties consent to it. In the event one or both parties are not in favour of the MI, the case may proceed for adjudication.</li> </ul>
<p>A respondent also sought confirmation that, as part of the MI process, the parties would be allowed to raise issues and seek clarification from the Mediator.</p>	<p>Typically, once both parties have consented to the MI process, a session will be arranged either online or in-person for the parties to meet with the Mediator. Before this session, the Mediator is provided with a copy of all relevant documents submitted by the parties. At the session, the Mediator will seek clarification from the parties and the parties are also allowed to raise issues and seek clarification from the Mediator. Once the Mediator is satisfied that he/she has the necessary information, he/she will proceed to deliver the MI.</p>

## F. Amendments to the list of Excepted Complaints

Feedback	Response
<p>All respondents generally agreed with the proposed amendments to the list of Excepted Complaints although there were some concerns and clarifications we will address below.</p>	<p>We will be proceeding to effect these changes with some amendments as described below.</p> <p>We have also noted suggestions on the introduction of other new categories of excepted complaints beyond the scope of the current review. We will keep these in view for future reviews.</p>
<p><b><u>Exclusion of disputes relating solely to investment performance.</u></b></p> <p>Some respondents expressed concerns about the clause excluding disputes relating solely to investment performance noting that consumers may lack the legal knowledge to distinguish that these issues may be closely linked with issues involving market misconduct. Some Financial Institution respondents shared that by introducing this clause, consumers with such complaint types may lose an avenue to raise their dispute. There were also concerns that Financial Institutions may unfairly rely on this clause to prevent disputes from being handled at FIDReC.</p>	<p>We recognise that that there may be times where disputes relating to market conduct are closely linked with investment performance. Accordingly, the clause applies only where the sole issue of concern is investment performance. If there are other elements involved in the dispute, such as misconduct, FIDReC will continue handling the claim. Should there be any dispute as to whether a matter can be handled at FIDReC, this can be referred to an Adjudicator under Rule 15(7) of the Terms of Reference.</p>
<p><b><u>Re-wording of Rule 5(iv) (cases concerning principal agent issues)</u></b></p> <p>With regard to the proposed amendments related to Rule 5(iv) regarding Principal Agent issues, it was suggested that the phrase ‘agency matters’ could be further clarified. Additionally, it was also highlighted that the term ‘Subscriber’ is not defined in the Terms of Reference.</p>	<p>The intent of Rule 5(iv) was to exclude disputes brought by employees or agents of an insurance company due to their principal-agent relationship under the guise of a dispute over a financial product they held with the insurance company. We will modify the phrasing to better capture this intent.</p> <p>We have noted the feedback that the term ‘Subscriber’ is not defined in the Terms of Reference. We will instead refer to ‘FI’, which is a defined in Rule 2 of the Terms of Reference.</p> <p>Accordingly, Rule 5(iv) will be amended to state: "disputes between an FI and its officers and employees relating to agency or employment issues".</p>

<p><b><u>Exclusion of disputes that had been handled at FIDReC previously</u></b></p> <p>One concern raised was that determining what constitutes new material information introduces a qualitative element that may be better suited for an adjudicator to decide.</p> <p>Some respondents requested for clarification on what would constitute ‘new material information’ and whether FIDReC would have a preliminary process to sieve out previously handled disputes.</p> <p>A respondent also suggested that FIDReC introduce an appeal process for disputes that had been previously handled.</p>	<p>The phrase ‘new material information’ should be read in the context of the full provision that explains that the information ‘was not reasonably available at the time the previous complaint had been filed’. As to what constitutes ‘material’, we will apply the ordinary meaning of whether the information relates to a matter that would influence a reasonable person's decision. If any party disputes FIDReC's determination, then pursuant to Rule 15(7) of the Terms of Reference, the parties may refer the matter to an Adjudicator for determination.</p> <p>To promote accessibility and effectiveness, FIDReC does not have any appeal process. As the FIDReC process does not bind the Complainant, the Complainant is free to pursue their dispute at any other avenue available to them should they fail to succeed in their case at FIDReC.</p>
<p><b><u>Other suggestions relating to Excepted Complaints</u></b></p> <p>There were various suggestions regarding the list of Excepted Complaints. These included:</p> <ul style="list-style-type: none"> <li>i) To fine-tune the definition of ‘Commercial Decision’</li> <li>ii) To introduce a time-bar for cases exceeding certain statutory time limits</li> <li>iii) To clarify Rule 5(x) as to whether reference to a court hearing was necessary given that some court orders are passed with no hearing.</li> </ul> <p>Some respondents also sought clarification on the following matters:</p> <ul style="list-style-type: none"> <li>iv) Whether law enforcement agency included government agencies such as the Ministry of Manpower and Workplace Safety and Health Council.</li> <li>v) Whether disputes voluntarily withdrawn by a Complainant as well as disputes dismissed under Rule 17 would fall under the proposed Rule 5(viii).</li> </ul>	<p>In view of the feedback, we will issue a Guidance Note to explain FIDReC's interpretation of the Excepted Complaints in the Terms of Reference.</p> <ul style="list-style-type: none"> <li>i) ‘Commercial Decision’ is defined in Rule 2 of the existing Terms of Reference as including but not limited to ‘an assessment of risk (such as in lending, taking security or insurance underwriting), and assessments of financial and commercial criteria or of character of a customer.’</li> <li>ii) Rule 13(1)(ii) of the Terms of Reference already states time limits for the Complainant to bring their complaint, i.e. ‘no later than a period of six months after the FI has provided its final reply to the Eligible Complainant’. Separately, we note that if the statutory limitation period is an issue, it is open to the FI to raise this as a defence when FIDReC handles the case.</li> <li>iii) Rule 5(x) should be interpreted as it is worded to apply to ‘cases which have been subjected to a court hearing and for which a court judgment and / or order has been passed.’</li> </ul>



	<p>iv) FIDReC will apply the meaning of ‘law enforcement agency’ in the Criminal Procedure Code of ‘any authority or person charged with the duty of investigating offences or charging offenders under any written law’.</p> <p>v) Any dispute dismissed under Rule 17 would fall under the new Rule 5(viii).</p>
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## G. Timelines to refer to business days instead of calendar days

Feedback	Response
All respondents agreed with the proposals relating to the fixing of timeline in business days. However, many provided feedback that it would be clearer and simpler if all timelines were stated in business days rather than adopting a mixture of both business days and calendar days throughout the Terms to Reference.	We have taken note of the feedback relating to consistency in the usage of business days. We will convert all references to ‘Days’ to mean business days in the Terms of Reference.

5. Accordingly, and having obtained the approval of the Board of Directors and the Monetary Authority of Singapore, FIDReC will proceed to implement all the proposed amendments on 1 July 2024, save for the amendment relating to small businesses. For small businesses, the tentative implementation date has been set for 1 January 2025 so that further study may be made to address the concerns raised during the public consultation.

## H. Other feedback

6. Besides the feedback that was sought in our public consultation, we noted that some respondents had made additional proposals and suggestions relating to the Terms of Reference. These are summarised below with FIDReC’s response.

Feedback	Response
i) To amend the definition of ‘Eligible Complainants’ to include a Singapore connection	i) The current definition in Rule 4 of the Terms of Reference suffices to provide a connection with Singapore by way of the Complainant being a customer of a Singapore-licensed FI.
ii) In view of the higher adjudication claim limits, some respondents suggested that FIDReC conduct a review of the Adjudication Fee payable by the parties	ii) We have noted this feedback and will consider it for future reviews.
iii) There was feedback received regarding the structure of FIDReC’s process, which binds the FI at adjudication (but not the Complainant) while at the	iii) Prior to FIDReC’s inception in 2014, the steering committee set-up by the Monetary Authority of Singapore was tasked to create an affordable and independent one-stop

<p>same time subjecting the FI to higher costs as compared to that of the Complainant.</p>	<p>centre for the resolution of all retail disputes with financial institutions. At that time, it was set out that FIDReC would be funded by the financial industry as part of the industry's commitment to the general public to resolve disputes in a fair and efficient manner. The fee structure and framework for adjudication to be binding on the FI but not the Complainant reflects this commitment.</p>
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24 June 2024

Financial Industry Disputes Resolution Centre Ltd

## Annex A

### List of Respondents in Alphabetical Order\*

1. A Neo
2. A Wong KK
3. AIG Asian Pacific Insurance Pte. Ltd.
4. Aung KN
5. BNP Paribas Singapore Branch
6. C Lim
7. Citibank Singapore Limited
8. Consumers Association of Singapore
9. Credit Bureau Singapore
10. D Neo
11. DBS Bank Ltd
12. Direct Asia Insurance (Singapore) Pte. Ltd.
13. EQ Insurance Company Limited
14. F Heng
15. General Insurance Association of Singapore
16. HL Assurance Pte Ltd
17. HSBC Bank (Singapore) Limited
18. ICICI Bank Limited
19. Income Insurance Limited
20. IPP Financial Advisers Pte. Ltd.
21. Law Society of Singapore ADR Committee
22. Law Society of Singapore Council
23. Lee WP
24. Life Insurance Association of Singapore
25. M See
26. Maybank Singapore Ltd
27. Ong YMJ
28. Oversea-Chinese Banking Corporation Limited
29. PayPal Pte. Ltd.
30. Phillip Securities Pte Ltd
31. Prudential Assurance Company Singapore (Pte) Limited
32. PY Wong
33. S Booyesen
34. S Poh
35. Securities Association of Singapore
36. Singapore Life Ltd
37. Singapore Medical Association & Academy of Medicine Singapore
38. Singapura Finance Ltd
39. Sumitomo Mitsui Banking Corporation
40. The Bank of Yokohama, Ltd. Singapore Branch
41. Tokio Marine Life Insurance Singapore Ltd
42. Trust Bank Singapore Ltd
43. United Overseas Bank Limited
44. United Overseas Insurance Ltd
45. Utmost International Isle of Man Limited Singapore Branch
46. W Foo YK

\* Not including anonymous respondents and respondents who prefer not to be named