

The logo for the Asian Development Bank (ADB), consisting of the letters 'ADB' in a white serif font on a dark blue rectangular background.

ADB

The Financial Ombudsman

A time-tested, dispute
resolution system
that protects
financial consumers

27 November 2024
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Today's presentation will cover:



- 1) Background on **ADB's FCP TA work in Mongolia** in 2020+
 - 2) Lessons learned from the **review of various financial ombuds** and ADR systems.
 - 3) **Why the Financial Ombudsman can also be a tool** to protect investors and inspire market confidence
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State of financial consumer protection in Mongolia at start of TA: **Nascent**

- Very few financial consumer protections in place (OECD high level principles recommend 12 necessary criteria to protect financial consumers: Mongolia lacked most).
- **Little to no formal financial complaints handling** offered by Bank of Mongolia and by the Financial Regulatory Commission.
- Limited to **no market conduct monitoring** by financial regulators/supervisors.
- Low levels of **financial literacy** of Mongolian consumers. Per WB/S&P study, Mongolia had a 41% finlit rate yet per WB Findex = 98% (what does the difference of 57% mean?)
- **No civil society consumer protection organizations** advocating for financial consumer protection.

Enter the **A (DB) TA Team!**

Our objectives in Mongolia:

An improved regulatory framework through the adoption of a specific law on financial consumer protection, or, comprehensive and binding market conduct rules adopted by the BoM and the FRC.

The adoption and implementation of an effective supervision policy, and enforcement of market conduct rules providing Mongolian consumers with financial services appropriate to needs and the best value for money.

***The establishment of a well-functioning
Financial Ombudsman***





What's the first question financial regulators always ask a consultant when faced with a new challenge?

ANSWER:

'What does about x, y, or z (other country) do about this issue?'

BoM wanted to examine other countries' ADR/financial ombuds. We selected an array of countries, each with a long standing, well respected system in place and from various legal systems & cultures/history.

Two Phases to the TA Project in Mongolia:

1) TA's primary scope was the draft FCP law which included the statutory authority for a financial ombudsman.

2) In order to advise on the ombudsman's history and **institutional set up, rules, funding arrangements & authority** for financial ombudsman, the TA team sought benchmarks. We studied the i) laws of establishment, ii) system's operating rules and iii) financials/annual reports and iv) interviewed the actual ombudsman and financial mediators in **Armenia, Australia, Malta and Singapore.**



Key Take Aways from Comparison of Systems:

- Financial ombudsman & financial ADR systems take years, sometimes decades to set up and require **strong political will (e.g. Armenia's former gov. of CB was a champion)** to ensure the establishment laws/regs are passed and that the system itself has the appropriate juridical mandate and authority.

- **Appealability of decisions** will be one of the most contested issues.

Fi's will attack the constitutionality of the system. (because systems generally opt for *non appealability* of ombuds' decisions; otherwise Fi's can afford to appeal and drag feet at the aggrieved consumer's expense.

Malta has a unique compromise solution: allow for appeals, but attach 8% interest.

- Financial institutions will obstacle the establishment of the ombudsman or ADR system. But: *Chance favors the prepared mind! (merci L Pasteur)*

Key Take Aways (cont').

- There is no perfect financial ombuds or ADR system: most existing systems evolve and are modified over time. E.g. to allow for SMEs to use the system (Armenia); or to consolidate multiple sectoral ombuds into one (Australia) or to automate/digitize (Singapore).
 - **Financial Complaints data = Policy maker's GOLD** (ie Australia Financial Complaints Authority's DataCube ex CW Bank of Australia most complaints to the system)
 - **Despite the long lead time to establish, all of the systems have proven to be distinctly positive attributes to their economies & FCP.**
 - The financial ombuds prof. community is very open to knowledge-sharing and embraces newbies. See INFO network:
<https://www.networkfso.org/how-to-guides.php>
- *Also FIDReC Singapore coming up 😊

Why use financial ombuds or a specialized ADR for investor dispute resolution?

If it is effective/fair and resolves the financial disputes of the most vulnerable of consumers.

[Foreign investors may not be as vulnerable as the poor domestic consumer but they can still be at a real disadvantage in foreign markets (e.g. slow courts where judges are not necessarily specialized in financial issues/law)]

The Fin. Ombuds can be both an effective market conduct supervisory tool and provide an early warning system to identify bad market conduct. Complaints data can then be used to inform financial sector policy making.

And, potential investors can consult this data to do their due diligence on the health of financial markets.



Thanks for joining today's discussion!

For text of full paper:

[Google: 'ADB: Establishing a Financial Services Ombudsman in Mongolia'](#)

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