

Annex D

Overview and Flowchart of Identified Ombuds Service Processes under Proposed Framework

How a complaint will flow through the identified ombuds service's process

Pre-identified
ombuds service

Client complains to firm about trading or
advising activity of the firm or its representative

Firm does not provide written
notice of decision to client
within 90 days

Client is not satisfied within
180 days of receiving written
notice of decision from firm

Client (**complainant**) opts to have
identified ombuds service consider
the complaint

Investigation and
recommendation
stage

Identified ombuds service investigator investigates the
complaint using inquisitorial process, including to identify
issues, and applies the fairness standard

Assuming
complainant
does not opt out
and there is no
formal objection,
if a set period of
time elapses
without either
party taking
specified action,
then the
recommendation
is deemed to be
a final decision of
the identified
ombuds service

Identified ombuds service investigator provides
the parties with a recommendation in draft form

Either party (or both) raise objections, if
any, to the draft recommendation

Identified ombuds service attempts to
facilitate a settlement between the parties

If settlement is
reached, then file is
closed

If no settlement, then identified
ombuds service investigator finalizes the
recommendation, which is non-binding
(**final recommendation**), including
addressing any objections to the extent
possible

If parties accept
the final
recommendation,
then file is closed

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Review and decision stage

Formal objection by either (or both) parties to the final recommendation, objecting to specific points in the recommendation and seeking both a review and a binding decision (**formal objection**)

More senior decision-maker of identified ombudservice considers objections raised by parties during the review and decision stage, applying the fairness standard and the essential process test

Either party may request a particular process, but identified ombudservice's decision-maker decides what process is essential.

Following the review process, identified ombudservice issues decision taking into account the final recommendation, any objections raised by parties, and any issues not addressed in the final recommendation (**final decision**)

Final decision may include compensation awards up to \$350,000 and may also direct some corrective actions.

Unless they are a party that objects to the final recommendation, a complainant may abandon the process or commence litigation during or after the review and decision stage

A final recommendation is deemed to be a final decision where neither party objects to the final recommendation within a certain length of time.

If parties accept final decision, then file is closed

If a firm refuses to comply with the final decision of an identified ombudservice, then either the identified ombudservice or a complainant may file the final decision as an order of the court.

Post-final decision

No appeal mechanism included under the proposed framework, but a complainant may consider litigation where they were not a party that objected to the final recommendation. A firm is always bound by a final decision unless the complainant either abandons the process or commences litigation. Parties may also be able to apply for judicial review of the decision, where available.