

**Financial Consumer Agency of Canada (FCAC)**  
**Reportable Consumer Provisions Complaint Process**  
**MCAN Mortgage Corporation - Term Deposits**  
**Complaint Procedures Policy**

**June 2011**

## **Background:**

On October 24, 2001, the Financial Consumer Agency of Canada (“FCAC” or the “Agency”) was created as an independent agency working to protect and educate consumers on financial services and about their rights and responsibilities under various federal laws, including the following:

- *Bank Act*
- *Insurance Companies Act*
- *Trust & Loan Companies Act* (the “Act”)

## **WHAT ARE MCAN’S OBLIGATIONS?**

Pursuant to Section 441 of the Act, companies regulated by the Act must establish procedures for dealing with complaints made by consumers (a “Complaint Procedures Policy”), and must designate a company officer or employee who shall be responsible for implementing the Complaint Procedures Policy. As a regulated entity, MCAN Mortgage Corporation (“MCAN”) is required to establish this Complaint Procedures Policy.

The Act and the FCAC Compliance Framework require that federally-regulated financial institutions:

- establish a Complaint Procedures Policy;
- provide the Agency with information on its “reportable level”; and
- forward all “reportable complaints” to the Agency within 60 days of the receipt of the complaint at the “reportable level”.

The FCAC Compliance Framework also notes that certain employees of financial institutions (including, for example, call centre personnel) should be acutely aware of the institution’s obligations to consumers, and that thorough and continuous training programs assist financial institutions in meeting these obligations.

The Vice-President of Investments of MCAN is responsible for implementing the procedures for dealing with complaints, as set out in this Complaint Procedures Policy.

Pursuant to Section 441(3) of the Act, companies regulated by the Act must make their Complaint Procedures Policy available where MCAN’s products or services are offered in Canada, on its website and in written format to any person who requests it. A copy of this Complaint Procedures Policy can be obtained:

1. in written form at 200 King Street West, Suite 400, Toronto, Ontario M5H 3T4;
2. on MCAN’s website at [www.mcanmortgage.com](http://www.mcanmortgage.com), under “Term Deposits”; or
3. in written form, by contacting Sylvia Pinto, the Chief Compliance Officer of MCAN, at [spinto@mcanmortgage.com](mailto:spinto@mcanmortgage.com), (tel.) (416) 591-5214.

## **WHAT IS A REPORTABLE COMPLAINT AND REPORTABLE LEVEL?**

- A reportable complaint is a complaint involving a consumer provision (As outlined in the tables on pages 7 to 10 of this Complaint Procedures Policy) or a targeted code of conduct or public commitment that has been received by or forwarded to the designated reportable level (or higher) of MCAN’s complaint handling procedure. At MCAN, the reportable level is the Chief Compliance Officer.

- Accordingly, all complaints involving a consumer provision/targeted code of conduct/public commitment that have been received by (or forwarded to) MCAN's Chief Compliance Officer (or higher) will be considered "reportable complaints" under this Complaint Procedures Policy.

#### **WHAT IS A CONSUMER PROVISION?**

- The consumer provisions relating to term deposits and complaints handling are set forth in the Charts in this Complaint Procedures Policy. In addition, the Chief Compliance Officer of MCAN maintains a legislative compliance chart setting forth all consumer provisions applicable to MCAN's operations.

#### **WHAT IS A CONSUMER PROVISION COMPLAINT?**

- FCAC's mandate does not extend to loan or credit granting issues, quality of service, business policies, hours of operation, pricing of services or billing errors. These all fall under the "general complaint" category and FCAC, if contacted by a customer, will advise the customer of MCAN's complaint handling procedures and provide the customer with MCAN's point of contact.
- MCAN's Term Deposit Administrators or Vice President, Investments will have to distinguish between general consumer complaints and complaints relating to compliance with a consumer provision/targeted code of conduct/public commitment. Only those complaints relating to compliance with a consumer provision/targeted code of conduct/public commitment are considered "reportable complaints" under this Complaint Procedures Policy.

#### **A reportable complaint must be forwarded to FCAC even though:**

- The consumer has also contacted FCAC;
- The consumer is satisfied with the outcome of the complaint;
- The complaint was received at the reportable level or higher but then sent to a lower level of the complaint-handling process for response/resolution;
- The complaint was received at a reportable level of the complaint-handling process and was resolved directly; and
- The financial institution concluded that it had complied with its obligations to consumers.

## Escalation Process

### **Who is responsible for handling complaints at the initial level before elevating to the next higher level, (Vice President, Investments)?**

- The first contact for all complaints will be the Term Deposit Administrators who receive all contacts whether by phone, email, mail, or fax.

### **What is the Term Deposit Administrator's role in dealing with complaints?**

- Understand and meet the customers' expectations;
- Identify the problem and determine the severity of the complaint;
- Determine if the customer is entitled to some type of redress;
- Attempt to resolve the problem
- If unresolved, forward the complaint to the next level (which is the Vice President, Investments) for handling and resolution.

### **How can a customer contact FCAC?**

- Where a complaint has been determined to involve a consumer provision, we must provide the complainant with written information on how to contact FCAC, and then log the mailing date for tracking reference and advise the Vice President, Investments.
- For the purpose of any complaint, a complainant may contact FCAC:
  1. at its office at 427 Laurier Avenue West, 6<sup>th</sup> Floor, Ottawa, Ontario, K1R 1B9; or
  2. through its website at [www.fcac-acfc.gc.ca](http://www.fcac-acfc.gc.ca).

### **What happens when the Vice President, Investments receives a complaint?**

- The Vice President, Investments needs to identify if it involves a potential consumer provision/targeted code of conduct/public commitment complaint-or is a general complaint; and provide a resolution.
- The Vice President, Investments is considered the last resort of disputing or resolving a complaint with the customer before "elevating" it one level higher to the Chief Compliance Officer of MCAN, thereby; creating a "reportable complaint" to FCAC.

### **What is the Vice President, Investments' next step for unresolved complaints?**

- If the complaint remains unresolved at this level, the complaint must be directed to the Chief Compliance Officer of MCAN. See below regarding the effect of "elevating".

### **When does a complaint elevate beyond the Vice President, Investments?**

- If a complaint regarding a consumer provision-/code of conduct/public commitment remains unresolved by the Vice President, Investments, it is then elevated for review to the Chief Compliance Officer of MCAN. If the Chief Compliance Officer is unable to resolve the complaint, the Chief Executive Officer is involved, and if the complaint continues to remain unresolved at that level, MCAN will advise the complainant to contact the Ombudsman for Banking Services and Investments.

### **Who is accountable for forwarding reportable complaints to FCAC?**

- The Chief Compliance Officer of MCAN is responsible to provide this information to FCAC for review in completing a “Complaint Summary Report”.

### **What does the “Complaint Summary Report” provide?**

- Name and address of financial institution;
- Identification of Liaison Contact (Chief Compliance Officer of MCAN), including name, address, telephone number and e-mail address;
- Identification of consumer provision/code of conduct/public commitment issue;
- Identification of complainant, including name, address, telephone number and e-mail address;
- Summary of consumer provision/code of conduct/public commitment complaint, including the date the complaint was received at the initial level (so we will have to have tracked it like any other complaint, up to the point where it is “elevated” to the Chief Compliance Officer of MCAN, for resolution);
- Description of the current status of the complaint;
- Description of how MCAN met the requirement under review, if MCAN determines that it has complied with its consumer obligations (FCAC may request supporting documents); and
- Measures that MCAN is proposing to rectify the situation, if a compliance issue is identified.

### **When do we need to report to FCAC?**

- Each “reportable complaint” must be reported, in a prescribed manner (through the completion of a Complaint Summary Report, as described above), to FCAC, within 60 days of its identification as a reportable complaint, whether or not it has been resolved within that period.

### **Who is accountable for tracking consumer provision complaints?**

- The Chief Compliance Officer of MCAN is responsible for tracking and monitoring the complaint until its conclusion.

### **What happens, if a consumer provision complaint is forwarded by FCAC?**

- A FCAC Compliance Officer will contact the Complaint Liaison person (Chief Compliance Officer of MCAN), and provide the information necessary to review the complaint.
- The Chief Compliance Officer will need to respond within 30 calendar days from the date they receive the Complaint/Compliance Report to forward their comments to FCAC.

### **Do we need to report on NIL complaints to FCAC?**

- No. FCAC is interested in receiving only reportable complaints.

### **Why are Reportable Complaints being forwarded to FCAC?**

- This report will aid FCAC in assessing the level of overall compliance.

## **MCAN Obligations**

In order for MCAN, to carry out its obligations under FCAC Compliance Framework and consumer provisions under the Act, MCAN has designated the following officers to work with FCAC officers when dealing with elevated reportable complaints:

Sylvia Pinto  
Chief Compliance Officer  
Toronto, ON

or

William Jandrisits  
President & CEO  
Toronto, ON

MCAN will promptly advise FCAC Compliance by email if the above-referenced designees change.

**Consumer Provisions Under FCAC Supervision**  
**Trust and Loan Companies Act**  
*(as it relates to Term Deposits)*

CLAUSE DESCRIPTION	TRUST COMPANIES
<b>Definitions</b>	<p><b>Definitions</b></p> <p><b>425.1.</b> The definitions in this section apply in this section, sections 431 to 434, 444.1 and 444.3.</p> <p>“<b>member company</b>” means a company that is a member institution as defined in section 2 of the Canada Deposits Insurance Corporation Act.</p> <p>“<b>personal deposit account</b>” means a deposit account in the name of one or more natural persons that is kept by that person or those persons for a purpose other than that of carrying on business.</p> <p>“<b>retail deposit account</b>” means a personal deposit account that is opened with a deposit of less than \$150,000 or any greater amount that may be prescribed.</p>
<b>Express Agreement For Charging Fees on Accounts</b>	<p><b>Interest &amp; Charges Accounts / Account Charges</b></p> <p><b>426.</b> A company shall not, directly or indirectly, charge or receive any sum for the keeping of an account unless the charge is made by express agreement between the company and a customer or by order of a court.</p>
<b>Disclosure On Opening Account of Interest To Be Paid</b>	<p><b>Disclosure on opening account</b></p> <p><b>427.</b> (1) A company shall not, after the day that is six months after the coming into force of this Part, open or maintain an interest-bearing deposit account in Canada in the name of any natural person unless the company discloses, in accordance with the regulations, to the person who requests the company to open the account, the rate of interest applicable to the account and how the amount of interest to be paid is to be calculated.</p>
<b>Exception For Deposit Accounts Over \$150,000</b>	<p><b>Exception</b></p> <p>(2) Subsection (1) does not apply in respect of any interest-bearing deposit account that is opened with a deposit in excess of \$150,000 or any greater amount that may be prescribed.</p>
<b>Disclosure In Advertising Of How Interest Will Be Calculated On Deposit</b>	<p><b>Disclosure in Advertisements</b></p> <p><b>Account 428.</b> No person shall authorize the publication, issue or appearance of any advertisement in Canada that indicates the rate of interest offered by a company on an interest-bearing deposit or a debt obligation unless the advertisement discloses, in accordance with the regulations, how the amount of interest is to be calculated.</p>
<b>Regulation Making Authority Respecting Disclosure</b>	<b>Disclosure regulations</b>

CLAUSE DESCRIPTION	TRUST COMPANIES
<p><b>Of Interest Paid On Deposit Accounts</b></p>	<p><b>429.</b> The Governor in Council may make regulations respecting</p> <ul style="list-style-type: none"> <li>• the manner in which and the time at which disclosure is to be made by a company of</li> <li>• interest rates applicable to debts of the company and deposits with the company, and</li> <li>• the manner in which the amount of interest is to be calculated;</li> <li>• the manner in which any charges for the keeping of an account are to be disclosed by a company to its customers and when the disclosure is to be made; and</li> <li>• such other matter or things as may be necessary to carry out the requirements of sections 426 to 428.</li> </ul>
<p><b>Disclosure Requirements When Opening Accounts</b></p>	<p><b>Disclosure required on opening a deposit account</b></p> <p><b>431.</b> (1) Subject to subsections (2) to (4), a company shall not open a deposit account in the name of a customer unless, at or before the time the account is opened, the company provides in writing to the individual who requests the opening of the account</p> <ul style="list-style-type: none"> <li>• a copy of the account agreement with the company;</li> <li>• information about all charges applicable to the account;</li> <li>• information about how the customer will be notified of any increase in those charges and of any new charges applicable to the account;</li> <li>• information about the company's procedures relating to complaints about the application of any charge applicable to the account; and</li> <li>• such other information as may be prescribed.</li> </ul>
<p><b>Exception: Notice For Non-Personal Deposit Accounts</b></p>	<p><b>Exception</b></p> <p>(2) If a deposit account is not a personal deposit account and the amount of a charge applicable to the account cannot be established at or before the time the account is opened, the company shall, as soon as is practicable after the amount is established, provide the customer in whose name the account is kept with a notice in writing of the amount of the charge.</p>

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<p><b>Exceptions — Opening Accounts By Telephone For Existing Account Customer</b> <i>(indicates changes from C-08)</i></p>	<p><b>Exception</b> (3) If a company has a deposit account in the name of a customer and the customer by telephone requests the opening of another deposit account in the name of the customer and the company has not complied with subsection (1) in respect of the opening of that other account, the company shall not open the account unless it provides the customer orally with any information prescribed at or before the time the account is opened.</p>
<p><b>Disclosure in Writing Within 7 Business Days Of Opening Account For A Non Personal Deposit Account</b></p>	<p><b>Disclosure in writing</b> (4) If a company opens an account under subsection (3), it shall, no later than seven business days after the account is opened, provide to the customer in writing the agreement and information referred to in subsection (1).</p>
<p><b>Right To Close A Deposit Account Within 14 Days Of Opening It Without Charges</b></p>	<p><b>Right to close account</b> (5) A customer may, within 14 business days after a deposit account is opened under subsection (3), close the account without charge and in such case is entitled to a refund of any charges related to the operation of the account, other than interest charges, incurred while the account was open.</p>
<p><b>Regulation Making Authority Concerning The Provision Of The Account Agreement And Information To The Customer</b></p>	<p><b>Regulations</b> (6) For the purposes of subsection (4), The Governor in Council may make regulations prescribing circumstances in which, and the time when, the agreement and information will be deemed to have been provided to the customer.</p>
<p><b>Duty To Disclose Information On Charges For An Account And For Services Provided To Customers/ Public</b></p>	<p><b>Disclosure of charges</b> <b>432.</b> A company shall disclose, in the prescribed manner and at the prescribed time, to its customers and to the public, the charges applicable to deposit accounts with the company and the usual amount, if any, charged by the company or services normally provided by the company to its customers and to the public.</p>
<p><b>Duty To Provide Notice For Increases In Charges Or New Charges Applicable To A Deposit Account</b></p>	<p><b>No increase or new charges without disclosure</b> <b>433.</b> (1) A company shall not increase any charge applicable to a personal deposit account with the company or introduce any new charge applicable to a personal deposit account with the company unless the company discloses the charge in the prescribed manner and at the prescribed time to the customer in whose name the account is kept. (2) With respect to such services in relation to deposit accounts, other than personal deposit accounts, as are prescribed, a company shall not increase any charge for any such service in relation to a deposit account with the company or introduce any new charge for any such service in relation to a deposit account with the company unless the company discloses the charge in</p>

CLAUSE DESCRIPTION	TRUST COMPANIES
	the prescribed manner and at the prescribed time to the customer in whose name the account is kept.
<b>Sections Concerning Disclosure Applicable Only To Accounts Provided In Canada</b>	<p><b>Application</b></p> <p>434. Sections 430 to 433 apply only in respect of charges applicable to deposit accounts with the company in Canada and services provided by the company in Canada.</p>

**CONSUMER PROVISIONS UNDER FCAC SUPERVISION  
TRUST AND LOAN COMPANIES ACT & REGULATIONS**  
*(as it relates to Complaint Handling)*

<b>CLAUSE DESCRIPTION</b>	<b>TRUST COMPANIES</b>
<p><b>Procedures For Dealing With Complaints</b></p> <p><b>Establishing Procedures</b></p> <p><b>Designating Officer Or Employee Responsible For Implementing Procedures</b></p> <p><b>Designating Officer Or Employee Responsible For Receiving Complaints</b></p> <p><b>Filing Copy of Complaint Procedures With FCAC</b></p> <p><b>Manner in which Procedures are to be made available</b></p> <p><b>Information on contacting Agency</b></p>	<p><b>Procedures For Dealing With Complaints</b></p> <p>Procedures for dealing with complaints 441. (1)</p> <ul style="list-style-type: none"> <li>• establish procedures for dealing with complaints made by persons having requested or received products or services in Canada from the company;</li> <li>• designate an officer or employee of the company to be responsible for implementing those procedures; and</li> <li>• designate one or more officers or employees of the company to receive and deal with those complaints.</li> </ul> <p><b>Procedure to be filed with Commissioner</b></p> <p>(2) A company shall file with the Commissioner a copy of its procedure established under paragraph (1)(a).</p> <p><b>How procedures to be made available</b></p> <p>(3) Procedures are to be made available in the form of a brochure, on the company web site and in written format.</p> <p><b>Information on contacting Agency</b></p> <p>(4) A company shall provide information on contacting the Agency through a brochure, web site and in written format.</p>
<p><b>Designation of Complaints Body</b></p> <p><b>Joining Third Party Dispute Resolution</b></p>	<p><b>Obligation to be member</b></p> <p>441.1 In any province, if there is no law of the province that makes a company subject to the jurisdiction of an organization that deals with the complaints made by persons having requested or received products or services in the province from a company, the company shall be a member of an organization that is not controlled by it and that deals with those complaints that have not been resolved to the satisfaction of the persons under procedures established by companies under paragraph 441(1)(a).</p>

CLAUSE DESCRIPTION	TRUST COMPANIES
<p><b>Information On Contacting Agency</b></p>	<p><b>Information on contacting Agency</b></p> <p><b>442.</b> (1) A company shall, in the prescribed manner, provide a person requesting or receiving a product or service from it with prescribed information on how to contact the Agency if the person has a complaint about a deposit account, an arrangement referred to in subsection 438(3), a payment, credit or charge card, the disclosure of a manner of calculating the cost of borrowing in respect of a loan or about any other obligation of the company under a consumer provision.</p>
<p><b>Complaint Information Regulations</b></p>	<p>Information to be provided for the purposes of section 441(4) and 442(1) of the Act is that the person may contact the Agency (a) at its office at 427 Laurier Ave. West, 6<sup>th</sup> Floor, Ottawa, Ontario K1R 1B9; or (b) through its website at <a href="http://www.fcac-acfc.gc.ca">www.fcac-acfc.gc.ca</a></p> <p>Manner of providing information for the purpose of section 442(1) of the Act (Complaints) – information must be provided</p> <p>(a) in a brochure, statement of account or written statement that discloses other information required under the Act in respect of:</p> <ul style="list-style-type: none"> <li>• an arrangement referred to in s. 438(3) of the Act</li> <li>• a payment, credit or charge card,</li> <li>• the cost of borrowing or</li> <li>• any other obligation of the company under a consumer provision; or</li> </ul> <p>(b) in a separate document.</p>

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