

Helping Consumers Resolve Financial Disputes

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After an overseas business trip, Timothy took a taxi home from the airport. When making payment for the taxi fare, he realised his credit card was missing. He immediately called the bank to block the credit card and made a police report.

A few weeks later, he received his credit card statement and was shocked to find out that there were several unauthorised transactions in foreign currency made while he was overseas. With police report in hand, Timothy visited the bank to dispute those charges.

After carrying out its own investigations, the bank informed Timothy that he had to bear the disputed charges as the transactions took place before the credit card was reported lost.

Timothy was unhappy. He felt that he should not be the one paying for the fraudulent charges. He wanted to engage a lawyer to sue the bank but was worried about the legal cost. He spoke to his friend who formerly had a dispute with an insurer regarding a health insurance policy. On his friend's recommendation, Timothy approached the Financial Industry Disputes Resolution Centre (FIDReC) for help.

What is FIDReC?

FIDReC is an Alternative Dispute Resolution (ADR) institution that specialises in resolving financial disputes between consumers and financial institutions like banks, finance companies, life insurers, general insurers, capital markets services licensees, licensed financial advisers and insurance brokers. FIDReC is not a

government agency and it is also not affiliated with the financial institutions. It is independent and impartial.

FIDReC provides an accessible and affordable ADR avenue for consumers who do not wish to go to court, whether because of the hefty legal

fees, complex legal procedures or unwelcome publicity. At present, FIDReC's services are available to consumers who are individuals or sole-proprietors.



What is Alternative Dispute Resolution (ADR)?

Litigation is often not the only solution to resolve a financial dispute. ADR is often simpler, quicker and more affordable to consumers. ADR refers to a range of mechanisms for resolving disputes outside court, including mediation and adjudication.

Mediation is a consensual and non-adversarial dispute resolution process in which a mediator,

who is a neutral party, facilitates a settlement agreement by guiding the parties towards a shared understanding of the dispute and of their respective interests. The mediator does not determine who is at fault. Mediation is also a private and confidential procedure. This is important to encourage openness between the parties and a free exchange of offers.

Adjudication is a process in which the parties submit their dispute to an impartial person who will make a final decision as to whether any party should be liable to the other.



What ADR Services Does FIDReC Offer?

FIDReC offers a complete dispute resolution process, conducting both the mediation and, if necessary, adjudication of the financial dispute. FIDReC operates two schemes, namely, (i) FIDReC Dispute Resolution Scheme; and (ii) FIDReC Non-Injury Motor Accident (NIMA) Scheme.

The FIDReC Dispute Resolution Scheme

The FIDReC Dispute Resolution Scheme comprises mediation (stage 1) and adjudication (stage 2). Where a dispute is settled at mediation, FIDReC's services are free-of-charge to the consumer. If mediation is unsuccessful and the case is referred for adjudication, the consumer has to pay a nominal fee of S\$50 per claim and the financial institution pays S\$500 per claim (all amounts are subject to prevailing GST). The jurisdiction for adjudications at FIDReC is up to S\$100,000 per claim. There is no claim limit for mediation. More details on the FIDReC Dispute Resolution Scheme are as follows:

Mediation (Stage 1)

After a dispute is filed at FIDReC, a case manager is assigned to look into and mediate the dispute between the parties. The consumer and the financial institution are encouraged to settle the dispute in an amicable manner on mutually acceptable terms.

Mediation may be conducted through telephone or email, but, where appropriate, mediation conferences are arranged to allow face-to-face communication. At the mediation conference, the case manager facilitates the discussion of the dispute between the consumer and the financial institution with the expectation of helping them understand each other's perspectives. At the

same time, the case manager will also facilitate and guide the parties in negotiating a mutually acceptable settlement if they are willing to do so. At mediation, the case manager does not have the power to force a decision on either party. Should the parties fail to come to an agreement, the consumer may refer the case for adjudication.

Adjudication (Stage 2)

Where the dispute is not settled by mediation, the consumer can choose to proceed to adjudication. Among FIDReC Adjudicators are former judges, senior lawyers and retired industry professionals.

Before the adjudication hearing, both parties must prepare written submissions and provide all the relevant evidence they wish the Adjudicator to consider. Consumers who are not fluent in English may be accompanied by a nominee, who can help the consumer with preparing and presenting the case (where approved by the Adjudicator). No representation by lawyers is allowed. During the adjudication hearing, all parties will be given adequate opportunity to present their case to the Adjudicator.

The Adjudicator will make a decision based on the facts of the case, the evidence produced by the parties, and the law. Where the Adjudicator makes an award in favour of the consumer, it is binding on the financial institution, but not on the consumer. The consumer is free to choose whether or not to accept the award. Where the consumer chooses not to accept the award or no award is made in the consumer's favour, he or she is free to pursue the complaint elsewhere, including litigation.

FIDReC Non-Injury Motor Accident (NIMA) Scheme

The FIDReC-NIMA Scheme helps consumers resolve non-injury motor accident disputes where the amount claimed is below S\$3,000. These are motor accident disputes that do not involve bodily injury and that involve claims by consumers against insurers of the other party/parties.

The FIDReC-NIMA Scheme is governed by the "Pre-action Protocol for Non-Injury Motor Accident Cases (Appendix C of the State Courts Practice Directions)" issued by the State Courts of Singapore. Under the FIDReC-NIMA Scheme, non-injury motor accident claims below S\$3,000 must generally be first heard by FIDReC before court proceedings can be commenced.

If the dispute is resolved at mediation (stage 1), FIDReC's services are free-of-charge to the consumer. Where the dispute is referred for adjudication, the consumer pays S\$250 per claim and the financial institution pays S\$500 per claim.

A sum of S\$200 may be refunded to either the consumer or the insurer after the adjudication of the case is completed, as determined by the Adjudicator based on FIDReC's prevailing Refund Rules. More details on the FIDReC-NIMA Scheme are as follows:



Mediation (Stage 1)

At the mediation stage, the case manager looks into and mediates the dispute between the parties, just as with the FIDReC Dispute Resolution Scheme.

If the consumer and the insurance company are unable to settle their dispute, FIDReC will appoint a separate Mediator who will provide an indication as to whether an award is likely

to be made in favour of the consumer and, if so, the likely monetary amount of the award. This Mediator's Indication is not binding on the consumer or the insurance company. Both are free to accept or disagree with the Mediator's Indication. If both the consumer and the insurance company accept the Mediator's Indication, the dispute is settled, otherwise it will proceed for adjudication.

Adjudication (Stage 2)

In addition to what has been mentioned above, FIDReC Adjudicators will also be guided by the Barometer of Liability developed by the State Courts of Singapore.

The decision of the Adjudicator is binding on the insurer but the consumer is free to choose whether to accept the decision or to pursue his claim via other avenues.

How Do I File a Dispute at FIDReC?

If you have a complaint against a financial institution, you should first contact the financial institution to give them a chance to resolve the matter with you. If the financial institution fails to resolve the complaint to your satisfaction or does not reply within four weeks of receiving the complaint, you can then file a complaint with FIDReC, either in person or by fax, post or email. The complaint has to be filed at FIDReC

within six months after the financial institution's final reply.

If you have queries, you may contact us at (65) 6327 8878 or via the following means:

- (i) email us at info@fidrec.com.sg;
- (ii) write to us at FIDReC, 36 Robinson Road, City House, #15-01, Singapore 068877; or
- (iii) send us a fax at (65) 6327 1089.

You may also visit us at FIDReC's office. Our opening hours are: Mondays to Fridays, 9am to 6pm. For more information, please visit our website: www.fidrec.com.sg.



What Happened to Timothy?*

During the mediation at FIDReC, the bank acknowledged that Timothy had done the right thing in making a police report as soon as possible, but questioned whether Timothy had taken the appropriate steps to look after his

card while he was overseas. Timothy accepted that he could have been more watchful over the card but explained that he was occupied with his work during the trip. In view of Timothy's longstanding relationship with the bank, the

bank and Timothy came to a settlement where Timothy would bear 70% of the unauthorised charges.



* Disclaimers: Timothy's case is fictitious. In mediation, the outcome is determined by the parties. This is therefore not necessarily indicative of the future or likely mediation outcomes at FIDReC.