Regulatory Disclosure and the Irish Financial Services Ombudsman

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Abstract

This study investigates the effectiveness regulatory disclosure, specifically the power to name and shame persistently offending financial service providers (FSPs) in its annual reports awarded to the Irish Financial Services Ombudsman (FSO) in 2013. The existing literature on ombudsmen focuses mainly on the global spread of the ombudsman concept since the 1960s but is largely silent on the effectiveness of financial ombudsmen. As the first country to award its financial ombudsman name and shame powers, Ireland represents a novel setting in which to test the impact of regulatory disclosure by an FSO on the behaviour of FSPs. Our results show that the number of complaints lodged against FSPs dropped precipitously in its immediate aftermath (in a comparison of means test $p < 0.01$) and, following a one-year lag, so did the percentage of complaints lodge that proceeded to a full investigation and finding (in a comparison of means test $p = 0.07$). This study argues that despite international scepticism on the efficacy of name and shame strategies, the experience of the Irish FSO suggests that regulatory disclosure had considerable impact in shaping the preferences of FSPs and improving the effectiveness of the FSO.

Keywords: Financial services ombudsman, regulatory disclosure, Ireland, name and shame

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1.0 Introduction

In the years following the global financial crisis (2007), bank bailout (2008) and the onset of the recession in Ireland (2009), the number of complaints lodged with the Irish Financial Services Ombudsman (FSO) against financial service providers (FSPs) increased significantly (Financial Services Ombudsman, 2010, 2011, 2012). The FSO is the statutory officer who deals independently with unresolved complaints from consumers about their individual dealings with all FSPs in Ireland. At this time in the words Bill Prasifka (the FSO at the time), FSPs "continue(d) to treat the FSO Bureau as 'just another complaints department'" (Financial Services Ombudsman, 2013b). Concomitantly, with limited staff and resources, the increasing caseloads following the crisis compromised the effectiveness of the FSO in the eyes of consumers who complained about lengthy waiting periods and a correspondence heavy process (Financial Services Ombudsman, 2016b).

The original legislation establishing the FSO emphasized the need to deal with complaints informally through mediation and, only where necessary, by investigation and adjudication. In October 2013, the Irish Minister for Finance, Michael Noonan provided the FSO with a number of regulatory enhancements to encourage resolution between the consumer and their FSP in the first instance. Central to these enhancements was regulatory disclosure, the power of the FSO to name-and-shame offenders in published reports who had at least three complaints against them substantiated or partly substantiated in the preceding year. These regulatory enhancements shifted the nature of the enforcement options available to the FSO. This event was the first time that such regulatory disclosure powers had been awarded to any FSO in any jurisdiction (Prasifka, 2013). Therefore, the introduction of the name and shame powers represented a novel natural experiment where the behaviour of FSPs could be observed before and after the introduction of the treatment event. As such, the intervention represented

a unique opportunity to investigate the effectiveness of regulatory disclosure in a financial services setting.

We conjecture that the threat to name and shame offenders by the FSO had a significant impact on the behaviour of FSPs in Ireland. Many of these service providers were previously happy to pay compensation with the knowledge that even when cases against them were upheld consistently, this would not become public knowledge. We argue that, in an effort to avoid damaging their reputation, FSPs in total and various categories (investment, banking and insurance) became more likely to resolve consumer complaints such that the quantity (as measured by complaints received by the FSO) and quality (as measured by the likelihood of a received claim proceeding to investigation and finding) of complaints are expected to fall.

In order to investigate the hypotheses in this paper, we use data about the number of complaints made against FSPs by consumers for the period 2010–2016 available from the annual reviews and reports available from FSO publications (Financial Services Ombudsman, 2010, 2011, 2012, 2013, 2014, 2015, 2016). We use trend analysis during this period to compare the number of complaints received as well as the percentage of these complaints which proceeded through full investigation and finding in each year in the event window. To specifically test for the impact of regulatory disclosure powers on the behaviour of FSPs, we group the event window into a before and after period. We use an equal variances comparison of means test to investigate if there is a statistically significant difference in the number of complaints received and the percentage of complaints which proceed through full investigation and finding. Our findings indicate that the name and shame strategy made a big difference to the operation of the FSO Bureau — the number of total complaints received decreased precipitously and significantly ($p < 0.01$) in the year following the change and the percentage of complaints proceeding to investigation and finding also declined significantly ($p = 0.07$).

Although we are not aware of any studies that closely resemble our investigation in terms of its scope, aims and experimental design, our study is related to four groups of previously published works. Firstly, our paper contributes to the extant literature focused broadly on the ombudsman role on the development of public law in a variety of situations (Bonner, 2003; James and Seneviratne, 1995; Robertson, 1998; Steyn 2001) but especially human rights (Ayeni, 2001; Reif, 2000, 2004; Von Tigerstom, 1998). Second, our paper extends the many studies focused on the extensive literature detailing the global spread of the ombudsman concept since the 1960s (Abedin, 2010; Gregory and Giddings, 2000; Melville, 2010; Oosting, 1999; Oseni and Omoola, 2017; Rowatt. 1985; Short, 2001; Volio; 2003). We also contribute to the sparse literature on the role of the financial ombudsman. Specifically, while there are some studies which chart the evolution of the legal framework around the oversight of FSPs in common law and EU settings and the sometimes tension between financial ombudsman and the judiciary (Abraham, 2008a, 2008b; Brophy, R., 2012; Hertogh, 1998; Thomas, 2001; Merricks, 2007; Stewart and McNally, 2014), the literature is silent on the effectiveness of financial ombudsmen. Finally, our paper adds to the emerging literature on the efficacy of regulatory disclosure within the context of responsive regulation and smart financial governance approaches which combined hard and soft powers (Bardach and Kagan 1982; Gunningham, Grabosky and Sinclair, 1998; Gunnignham, Kagan and Thornton, 2004; Braithwaite 2008; Van Erp, 2010). Our paper aims to add to this research by examining the impact and effectiveness of regulatory disclosure on a consistent target group (FSPs in this instance) in a defined financial services setting.

2. Ombudsman schemes in Ireland

The word 'ombudsman' is derived from the Old Norse word 'umbodhsmadhr', meaning deputy, agent or plenipotentiary whose role it was to recover compensation from the family of a wrongdoer on behalf of the family affected by a wrongdoing (Gellhorn, 1962). The concept of an ombudsman as a citizen's defender in common law systems emerged in the 1960s (Anderman, 1962; Harlow, 1978) and since then there have been three waves of ombudsman schemes (Morris and James, 2002).

The first wave had statutory authority and was largely aimed at improvement of the performance of public administration and the enhancement of government accountability to the public (Reif, 2000). As part of this wave in Ireland, the Ombudsman Act 1980 gave citizens a mechanism by which administrative actions can be investigated. The Act established the Office of the Ombudsman, which had the function of examining complaints made about government departments and public bodies (Donnelly, 2012; Hogan and Morgan, 2010; Ombudsman Act, 1980). The second wave involved the establishment of private sector ombudsmen (especially in the financial services area) in voluntary schemes focused on the protection of consumer rights as opposed to the more citizen-oriented focus of the first wave. Beginning in the 2000, a third generation of statutory ombudsman schemes which applied to individual sectors were established. Irish examples include the Ombudsman for Children; the Garda Siochána Ombudsman Commission; the Ombudsman for the Defence Forces and the Pensions Ombudsman, as well as the FSO.

2.1 Evolution of the Financial Services Ombudsman in Ireland

The second wave of ombudsman schemes in Ireland saw the establishment of the Credit Institutions' Ombudsman Scheme and the Insurance Ombudsman of Ireland in 1990 and 1992,

respectively. Even though membership of these schemes was voluntary (and the associated costs were met entirely by those FSPs involved), the schemes were popular among industry participants eager to avoid the imposition of government schemes over which they would have no control (Donnelly, 2012). Additional advantages for those FSPs involved were that, because the decisions of the private ombudsman in these schemes did not have any precedential force, findings from proceedings did not place any future restrictions on FSPs, nor were these findings made public, i.e. offending FSPs were not named and shamed.

While these schemes were generally regarded as being independent from the industry that funded them, a series of EU directives designed to improve the level of financial protection for consumers placed particular emphasis on consumers having access to out-of-court redress through alternative dispute resolution schemes (ADRs). In response, the Irish government appointed a Single Regulatory Authority Implementation Advisory Group in 1998, chaired by the Attorney General, Michael McDowell. The McDowell Report recommended, *inter alia*, the establishment of a new single regulatory authority with responsibility for all FSPs and, as part of the third wave of ombudsman schemes in Ireland, the establishment of a Statutory Ombudsman for Financial Services.

Subsequently the Central Bank and Financial Services Authority of Ireland Act (2004) provided for the establishment of the Financial Services Ombudsman's Bureau.[1] The FSO was formally established in April 2005 to provide free redress for financial service consumers and to encourage consumer confidence in the financial services market. The Act created the FSO as an independent entity with clear rules of procedure. It had an expanded remit to mediate, adjudicate, and resolve complaints from consumers about their individual dealings with FSPs

[1] See in particular Section 16 and Schedules 6 and 7 of the Act.

that were unresolved by the providers and in doing so transferred control from previously established self-regulating industry groups.

2.2 Regulatory Disclosure

Although in the years which followed the establishment of the FSO, some FSPs embraced the what the FSO was trying to achieve and engaged with their customers before complaints escalated, the financial ombudsman observed that i) a large number of FSPs treated the FSO as 'just another complaint department', and ii) many unhappy customers also viewed the FSO as the point of first contact (Financial Services Ombudsman, 2013b). In an effort to exercise control over both the lifecycle of the complaints process and the ever increasing workload in the Bureau, the FSO was given additional powers under the section 72 of the Central Bank (Supervision and Enforcement) Act 2013[2]. In summary, and in order to encourage FSPs to learn from previous FSO findings, the Act empowered the FSO to prepare a review of trends and patterns of complaints for each financial year and to publish the name of any FSP having at least three complaints upheld against them within the previous twelve months. It is the data contained in these reviews and reports which informs this study.

Although some of these measures in the Act were intended to bring Ireland in line with the EU's Alternative Dispute Resolution (ADR) Directive, the name and shame powers given to the FSO went far beyond the minimum harmonization instrument required by the Directive. In that regard, the Irish setting represents a natural experiment providing a unique opportunity to assess the impact of regulatory disclosure on the behaviour of FSPs in the jurisdiction. As Michael Noonan, the Irish Minister for Finance indicated at the time, "this additional provision

[2] See http://www.irishstatutebook.ie/eli/2013/act/26/enacted/en/print#sec72 for full details of the amendments to section 72 of the Central Bank (Supervision and Enforcement) Act 2013.

will mean that financial service providers who are failing their customers will be publicly identified and incentivised to make real improvements" (Telford, 2014).

2.3 Name and Shame as a Form of Regulatory Power

In describing the spectrum of powers available to financial regulation bodies, Christine Parker notes "enforcement strategies tend to be and should be, arranged in a regulatory pyramid with more cooperative strategies deployed at the base of the pyramid and progressively more punitive approaches utilized if and when more cooperative strategies fail" (2006, 592). Regulatory disclosure and the power to name and shame is located in the middle section of this pyramid combining elements of both hard and soft power. Nye (1990) contrasts soft power (the ability to use attractive cultures or policies so that others change of their own accord) with hard power (the ability to force change and to demonstrate the consequences of not behaving as expected). Before the 2008 financial crisis, soft power approaches which were viewed as being flexible and adaptive to rapidly changing financial environments (Abbott and Snidal, 2000; Lipson, 1991) as well as cheaper than hard power enforcement strategies (Gersen and Posner, 2008). Since the financial crisis, there has been increasing scepticism as to whether financial regulation based on soft power alone is sufficient to meet the demands of contemporary financial governance (Arner and Taylor, 2009). In a study of the trajectory of financial regulatory reform in the UK post-crisis, McNeil (2010) has observed a move away from the softer light-touch principles-based regulation which previously characterised the industry. Wilson (2008) describes smart power as the ability to shape the preferences of others by combining elements of hard and soft power in a way that is mutually reinforcing and this model has informed the growing literature on smart regulatory governance (Gunningham, Grabosky and Sinclair, 1998; Gunnignham, Kagan and Thornton, 2004; de Burca and Scott, 2006;

Braithwaite, 2008). In describing the advantages of smart governance, Brummer (2010) points to the possibility for "name-and-shame" powers as being an important hardening agent in soft power agreements.

Regulatory disclosure can have benefits for consumers and regulatory bodies. These approaches can empower consumers to become "active co-producers of market regulation instead of command and control regulation of markets in which consumers are passive beneficiaries of regulation" (Van Erp, 2010, 409). For regulators emerging from an era dominated by soft principles based approaches, the power to name and shame can provide them with considerable scope to inflict reputational damage on offending FSPs (Fisse and Braithwaite, 1983; Gunningham, Kagan and Thornton, 2004, May, 2005). Reputational damage can affect share price and consumer confidence and therefore, the capacity to name and shame represents an important disciplinary instrument (Macrory, 2006). However, a number of critics have pointed to the potential weaknesses inherent in regulatory disclosure. In describing the debacle over the pensions mis-selling scandal in the UK during the late 1990s, Steve Tombs notes that Helen Liddell, the then Economy Secretary to the Treasury attempted to name and shame offending FSPs in 1997 with little success or response from offenders (Tombs, 2013, 14). He concludes that the FSPs countered the moral condemnation at the heart of the shaming process with their own neutralization techniques. In the UK, these strategies consisted of the countering of public condemnation with public relations strategies that stressed the importance of free enterprise and entrepreneurship in the British economy and the illegitimacy of external regulation of FSPs (Tombs, 2002, 134). Therefore, in order to be effective, name and shame strategies require a community, an audience in front of which the offending FSP can be shamed (Braithwaite and Braithwaite, 2000). In addition, this community must concur with the body enforcing the regulatory disclosure that the offending behaviour is indeed shameful and morally transgressive. Christine Parker concludes that disclosure

strategies “rely on the assumption that regulatory messages are communicated into a world of shared bonds and shared understanding in which companies can effectively respond to regulatory signals” (1999, 225). If these shared understandings linked to the provision of financial services are not present, then disclosure strategies are likely to be less effective. In many ways, one can only assess whether shared understandings exist by examining an event such as the introduction of regulatory disclosure by the FSO in Ireland and measuring the response in terms of FSPs behaviours. This research is the necessary first step in developing a deeper interrogation of the shared understandings that underpin the behaviour of FSPs in the Irish financial services sector.

2.4 Hypothesis Development

The first expectation in this study is that the number of new complaints lodged with the FSO to fall as a result of introduction of regulatory disclosure. Whether the expected fall is caused by i) the requirement that consumers engage with the complaints department of their provider in the first instance, or ii) FSPs, fearing an adverse finding, resolving more complaints than they would have prior to the FSO’s new powers to name and shame, is irrelevant because the influence of both are covered by the changes to the powers of the FSO. Our first hypothesis in null form is:

> H1: There is no difference in the total number of complaints received by the FSO before and after the introduction of new powers.

In addition, the FSO categorises FSPs by three categories — investments, banking, and insurance. Insofar as regulatory disclosure could be expected to have a different impact on each type of FSP, our supplemental hypothesis in null form is:

H1a: There is no difference in the number of complaints by category (investment, banking, insurance) received by the FSO before and after the introduction of name and shame powers.

There are four ways that complaints can be closed by the FSO. The first is that the complainant fails to provide the necessary documentation with the complaint, is satisfied on a point of clarification by the FSO, or makes no further contact such that these claims are deemed closed without mediation, settlement or finding. The second is that, once a properly documented complaint that falls within the legislative jurisdiction of the FSO is lodged, the FSO offers both parties the opportunity to close the complaint by way of confidential mediation which is far less time consuming and less costly than a formal investigation. Should mediation fail, the complaint proceeds to formal investigation but it should be noted that at any stage of the process, the complaint can be closed a third way — by way of settlement between the parties. The fourth way is that, following formal investigation, the FSO adjudicates and the complaint is closed by way of a legally binding finding.

Consequently, the second expectation in this study is that, in order to avoid the risk of having to report adverse outcomes, FSPs will engage more completely with the complaints process. As a measure of this more complete engagement, we anticipate that more cases will be settled earlier in the process such that we expect the percentage of complaints closed by way of finding to fall as a result of the introduction of regulatory disclosure powers. Our second hypothesis, in null form is:

H2: There is no difference in the percentage of claims closed by way of finding before and after the introduction of name and shame powers.

3.0 Data

To test the hypotheses in this paper we collected data about the number of complaints received, the number of complaints received by category (investment, banking, insurance), the manner in which these complaints were closed,[3] and the number of complaints upheld from the online annual reviews and reports posted on the website www.financialombudsman.ie, and in certain instances directly from the FSO Bureau, for each year from 2010-2016[4].

[3] Because the number of cases closed by way of mediation is relatively small (i.e. on average just 0.4% of all cases closed), for the purposes of the analyses in this study we combine the number of cases closed by mediation with the number closed by settlement.
[4] Data was confined to the 2010-2016 period to provide a comparison window before and after the big bang in 2013 and because complaints were categorised differently before 2010.

Table 1 **Trends in Complaints Lodged with the Irish Financial Services Ombudsman**

	2010	2011	2012	2013	2014	2015	2016
Total new complaints received	7,230	7,287	8,135	7,722	4,477	4,872	4,513
% increase		*0.8%*	*11.6%*	*-5.1%*	*-42.0%*	*8.8%*	*-7.4%*
Total new investment complaints received	1,119	1,024	840	770	271	307	236
% increase		*-8.5%*	*-18.0%*	*-8.3%*	*-64.8%*	*13.3%*	*-23.1%*
Total new banking complaints received	2,378	2,680	3,087	2,925	2,127	2,385	2,232
% increase		*12.7%*	*15.2%*	*-5.2%*	*-27.3%*	*12.1%*	*-6.4%*
Total new insurance complaints received	3,562	3,443	4,064	3,835	1,955	1,973	1,866
% increase		*-3.3%*	*18.0%*	*-5.6%*	*-49.0%*	*0.9%*	*-5.4%*
Total complaints closed	6,901	7,464	7,871	8,639	5,878	4,915	4,323
% increase		*8.2%*	*5.5%*	*9.8%*	*-32.0%*	*-16.4%*	*-12.0%*
Total complaints closed	6,901	7,464	7,871	8,639	5,878	4,915	4,323
Closed without a settlement, investigation or adjudication as a % of total complaints close	*51.8%*	*45.3%*	*45.7%*	*52.6%*	*46.0%*	*57.3%*	*27.2%*
Closed by mediation or settlement as a % of total complaints closed	*12.8%*	*14.0%*	*16.4%*	*12.9%*	*15.9%*	*18.1%*	*56.0%*
Closed by way of finding as a % of total complaints closed	*35.4%*	*40.7%*	*38.0%*	*34.5%*	*38.1%*	*24.5%*	*16.8%*
Complaints upheld as a % of total complaints closed	*18.1%*	*11.9%*	*10.1%*	*6.8%*	*6.6%*	*11.6%*	*13.9%*
Complaints partly upheld as a % of total complaints closed	*7.0%*	*15.4%*	*16.9%*	*15.8%*	*15.3%*	*23.6%*	*29.7%*
Complaints not upheld as a % of total complaints closed	*74.9%*	*72.8%*	*73.0%*	*77.4%*	*78.2%*	*64.8%*	*56.4%*
Average compensation awarded per complaint upheld	5,993	6,227	5,752	4,620	6,523	7,949	15,540

The data on new complaints received shows a noticeable difference in total complaints in the years before and after the introduction of name and shame powers. Specifically, total new complaints received fell from 7,722 in 2013 to 4,477 in 2014, a decrease of 42.0%. As regulatory disclosure was introduced in September 2013, it can be argued that 2012 is a better comparator for 2014 figures; in which case the drop in complaints received was from 8,135, a 45.0% decrease. The data also shows that the decreases in complaints, although not uniform, across all categories of FSP is precipitous for each. Specifically, complaints received about investment firms fell from 770 in 2013 to 271 in 2014, a decrease of 64.8%, banking complaints fell from 2,925 to 2,127 over the same period, a decrease of 27.3%, and insurance complaints fell from 3,835 to 1,955, a 49.0% decline. Using 2012 data as the base year, the decrease in complaints received about investment, banking, and insurance firms was 67.7%, 31.1% and 51.9%, respectively. It is noticeable that the impact of these decreases has been sustainable through 2016 — total new complaints received has increased by only 0.8% since 2014, with investment complaints down a further 12.9% in that time, banking up 4.9% and insurance down 4.6%.

The data on new complaints require additional context. Around the same time that the FSO received the additional powers previously discussed, the Bureau also implemented changes to internal work practices in an additional effort to reduce caseloads. Specifically, these changes required that anyone with a complaint about an FSP must first engage with the provider's own complaints process (as per the Consumer Protection Code) and that the FSP was given a reasonable opportunity to deal with a complaint and takes all steps to resolve the complaint. If the parties were unsuccessful in resolving the complaint, the provider had to tell the complainant in writing what its final response to the complaint was, inform the complainant of the right to make a complaint to the FSO, and to furnish the complainant with the FSO's

contact details. It is likely that these changes, combined with the regulatory disclosures, also influenced the number of complaints lodged from September 2013.

The impact of regulatory disclosure on the manner in which complaints were closed is also interesting. Specifically, and contrary to expectations, there is no immediate decrease in the percentage of complaints closed by way of finding in the year following the introduction of name and shame powers. Indeed, this percentage increases from 34.5% in 2013 to 38.1% in 2014, or up slightly from 38.0% from 2012. It is in the following year, 2015, when the anticipated decrease (to 24.5%) in the percentage of cases closed by way of finding occurs, and decreases further to 16.8% in 2016. A possible explanation for this lagged reaction is that FSPs, having engaged directly with customers to reduce the number of complaints lodged in the year following the changes, anticipated that the percentage of complaints being upheld would decrease. When this did not happen — the percentage of claims upheld decreased marginally to 6.6% in 2014 from 6.8% in 2013 — FSPs, further encouraged by the FSO, focused on settling lodged complaints rather than risk having to report an adverse finding. This is corroborated by the significant increase in the percentage of claims closed by way of mediation or settlement from 15.9% in 2014 to 18.1% and 56.0% in 2015 and 2016, respectively. It is noted that, (perhaps reflecting the increased time the FSO Bureau could spend on more complex complaints resulting from the decrease in new claims, and further discouraging FSPs to allow complaints to proceed all the way to finding) the percentage of complaints upheld against FSPs increased significantly from the previously stated 6.6% in 2014 to 11.6% and 13.9% in 2015 and 2016, respectively.

The 2016 percentage figures relating to the manner in which claims are closed also require additional context. Specifically, in February 2016, the FSO introduced a new dispute resolution process that involves more direct interaction with both parties earlier in the process and employs informal methods including mediation and conciliation (both by telephone and

through meetings) to resolve complaints. Where these early interventions fail to resolve the dispute and an investigated complaint is upheld, the FSO detailed the power of rectification (additional to the power to award compensation and to name and shame) to put a customer back to a position where they previously were before the complaint arose.[5] It is likely that this new more informal dispute resolution process, combined with increased rectification powers, influenced the number and percentage of complaints closed by settlement (and so, ceteris paribus, by way of finding) in 2016.

4.0 Results

In a comparison-of-variances test of the periods before and after the introduction of regulatory disclosure for each hypothesis (results not reported here), this study is unable to reject the null hypothesis that variances between the samples before and after regulatory disclosure are equal. Therefore, we use an equal variance comparison of means test to formally test the hypotheses in this study. Because the new powers were introduced in September 2013, the data for 2013 is excluded from both the pre-change and post-change groups such that the pre-change group includes the years 2010–2012 and the post-change group includes years 2014–2016.

Table 2 Comparison of Mean Test of the Difference in the Number of Complaints Lodged and Their Outcomes

[5] In some instances, such as where a home or life insurance policy has been voided or a claim denied, this is more important for the complainant than the compensation awarded.

	(1) Pre-big bang Mean [st. err]	(2) Post-big bang Mean [st. err]	(3) Change Mean [st. err]	(4) Sig. of Change *p*-values
New complaints	7,551	4,621	2,930	
	293	126	318	0.00
New investment complaints	994	271	723	
	82	20	84	0.00
New banking complaints	2,715	2,248	467	
	205	75	217	0.05
New insurance omplaints	3,690	1,931	1,758	
	190	33	193	0.00
% Complaints closed by way of finding	38.0%	26.5%	11.6%	
	1.5%	6.2%	6.4%	0.07
% Complaints upheld	13.4%	10.7%	2.7%	
	2.4%	2.2%	3.2%	0.22

The results indicate the combined significance of the new regulatory disclosure powers and the changes to work practices. In particular, the reduction in the total complaints received by the FSO after the change (which decreased by 2,930 from an average of 7,551 in the pre-period to 4,621 in the post-period) is significant at better than the 1.0% level ($p = 0.00$). This significant result also applies for both new investment and new insurance complaints which decreased by 723 (from an average of 994 in the pre-period to 271 in the post-period) and by 1,758 (from an average of 3,690 in the pre-period to 1,931 in the post-period), respectively. The reduction in the number of new banking complaints (although significant at the 5.0% level) is less significant than the other FSP categories, reflecting the ongoing mortgage related customer service issues in the Irish banking system throughout the test period (FSO Annual report, 2014).

The results for the percentage of complaints closed by way of finding are also significant and, for this hypothesis, solely attributable to the impact of the new regulatory disclosure powers. Specifically, the proportion decreased significantly by 11.6% from an average of 38.0% to 26.5% ($p = 0.07$) indicating that the name and shame strategy had the effect of lowering the proportion of lodged complaints that proceeded to formal investigation and binding finding. In other words, the threat of regulatory disclosure induced FSPs to actively engage with the complaints process such that, on average, a higher proportion of the

complaints lodged either required no further action (closed without mediation, settlement or finding) or were closed by way mediation or settlement with the customer.

5.0 Conclusions

Research on the ombudsman role has focused broadly on the global spread of the ombudsman concept since the 1960s and on the development of public law, especially in the area of human rights. Focusing on the role of financial ombudsmen, the literature is silent on the effectiveness of financial ombudsmen. The present study contributes to the need for substantive empirical research to investigate this research gap. Specifically, this study investigates the effectiveness of the FSO in Ireland following the introduction of regulatory disclsoure in October 2013 to encourage resolution between consumers and their FSPs. By introducing the capacity for regulatory disclosure, and specifically giving the FSO the power to name and shame offending FSPs, the expectation in this study is that the publication of such information would drive FSPs to provide a better service, change their procedures and policies to obviate the need for consumers to complain, and to settle cases at an early stage in the process.

In addition to contributing to the substantive qualitative research on the workings of the ombudsman, this study also contributes to the research on regulatory disclosure within contemporary smart financial governance. As the first country to award such powers to its FSO, the Irish setting represents a novel natural experiment where the behaviour of FSPs can be observed before and after the introduction of the treatment event. Our findings show that the name and shame strategies made a difference. One of the main aims of regulatory disclosure, as envisioned by the FSO, was to allow the overburdened case managers focus on more complex and difficult cases and to undertake formal investigations. In that regard, the implications of the trends observed in this study for the FSO Bureau are clear: the number of

new cases lodged with the FSO dropped precipitously from 7,722 complaints in 2013, to 4,477 complaints in 2014, a decrease of 42%. By category, the biggest reductions occurred in investments, which were down 65% compared to the previous year while reductions also occurred in insurance (decrease of 49%) and banking (decrease of 27%). The percentage complaints closed by way of finding decreased from 34.5% in 2013 to 16.8% in 2016. In an equal variances comparison of means test, the decrease in the number of total complaints and the decrease in complaints in each category was found to be significant in each case at better than the 5% level. A similar test of the percentage of complaints closed by way of finding before and after introduction of name and shame was also found to be statistically significant at better than the 10% level.

Our results show that the new powers enabled the Irish FSO to shape the preferences of FSPs in a way that has been mutually reinforcing. Further evidence of this mutually reinforcing effect can be are observed in the steady increase (results not reported here) in the compensation awarded per case upheld from €4,620 in 2013 to €15,540 in 2016. The implications for financial ombudsman around the world are obvious. Insofar as Ireland (as the first country to introduce regulatory disclosure powers) represents a novel natural experiment, our results show that in response to regulatory disclosure powers, FSPs raise their standards of customer service and as a consequence, consumers are less reliant on availing of the services of the FSO Bureau to reach a final conclusion. However, while our research demonstrates the marked effect of the regulatory disclosure change on the behaviour of FSPs, it provides only a starting point for understanding how the name and shame process actually operated in the Irish context. Thus, we suggest that further empirical investigation on the shared understandings which underpins the financial services sector in the Republic of Ireland, a relatively small country, could provide further useful insights into the potential of regulatory disclosure powers.

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