

FEBRUARY 15, 2012 ISSUE

UPDATE FROM OBSI'S BOARD OF DIRECTORS

15/02/2012

This note is one in a series of newsletters updating you on what's happening at the Ombudsman for Banking Services and Investments (OBSI). This newsletter issue comes from OBSI's Board of Directors, to update stakeholders on important initiatives.

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1) Governance Reform

As part of its Framework for Collaboration with financial market regulators, OBSI must submit itself to independent third party evaluations on a regular basis. The review was conducted once again by The Navigator Company of Australia, an international expert in financial Ombudsman schemes with many scheme reviews to its credit (The Navigator Company also conducted the first independent review of OBSI in 2007).

The reviewer's [report](#) on OBSI was again very positive. Its conclusions spoke volumes about the maturity of the organization, management, staff and processes in meeting a very demanding mandate – one that exists in a stakeholder environment that the reviewer described as being the most challenging it had ever seen.

In the report, the independent reviewer made eight strategic recommendations on governance, mandate reform, accountability and investment methodology. At its meetings on January 19 and 20, 2012 OBSI's Board of Directors considered these strategic recommendations and stakeholder input on each of them.

In response, the Board has chosen to focus first on what is doable and within its authority, followed by continued engagement with stakeholders on the remaining recommendations.

Specifically, the independent reviewer recommended that OBSI's Board of Directors be restructured under an independent Chair to include a consumer voice and a requirement that all directors be involved in all decisions. In a unanimous decision the Board has chosen to undertake broad-based reform of its governance structure.

An external search has already begun for the new Chair with the establishment of a Search Committee of the Board to provide oversight for this process. The distinction between industry and independent directors embedded in OBSI's bylaws will be eliminated and a new director nomination and selection policy will be developed. Consumer, investor and industry perspectives will be reflected in revised director criteria, an updated Board skills and characteristics matrix, and the sourcing of candidates with appropriate skills, experience, and insight. This will be completed in time to replace several long-serving independent directors who will step down at OBSI's September 2012 Annual General Meeting.

A new Governance Committee of the Board has been created to oversee the transition to a new governance structure, develop new governance policies and processes as appropriate, and consult with stakeholders on these changes.

2) Investment Suitability Complaints Methodology

The Board wishes to thank all stakeholders who submitted their views on OBSI's investment suitability and loss assessment methodology as part of the ongoing consultation process.

Before the holidays, the Board approved a series of proposed refinements to the methodology after considering all of the feedback it received. Just as with the original discussion paper, these proposals will be issued for a 60-day consultation period that will begin shortly.

During this phase of the consultation, OBSI will participate in information sessions organized by the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA) to discuss and obtain feedback on OBSI's approach to investment suitability complaints and our loss assessment methodology. These sessions will provide an opportunity for questions and discussion on how OBSI applies its specific methods to calculate investor losses in various fact situations. Look for details on these sessions to be provided to members directly by IIROC and the MFDA.

The Board is committed to continuous constructive engagement with all stakeholders, and looks forward to receiving feedback during this next phase of the public consultation process.

3) Stuck Cases

In late October of 2011, OBSI received a [letter](#) from the Canadian Securities Administrators (CSA), IIROC and the MFDA concerning the resolution of a small number of complaints considered to be "stuck"; that is, those complaints where, following OBSI's investigation, a clear conclusion had been reached but the firm in question had not yet agreed to compensate the investor despite a significant amount of time having passed.

Following consultation with the regulators, OBSI's Board has directed management to develop a temporary independent review process that meets the criteria identified by the letter's signatories while remaining simple for both complainants and firms. Details of this process will soon be made public.

The Board is encouraged that after the letter was received and made public a number of stuck cases have been resolved. The Board is also optimistic that more stuck cases will be resolved in the coming weeks.

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