

Submission of the OBSI Consumer and Investor Advisory Council (CIAC) on the Independent Evaluation of the Ombudsman for Banking Services and Investments (OBSI) under Article 4 of the Memorandum of Understanding Between Participating CSA Members and OBSI

The OBSI CIAC

The OBSI Consumer and Investor Advisory Council (CIAC) was established in 2011 as an advisory group to the OBSI Board. At that time, OBSI's status and authority as a dispute resolution provider was unclear, and, as the 2011 *Independent Review Report* of the Navigator Group indicated, even its continued existence was in question. During this period of turmoil, the CIAC studied the evolving issues and contributed a consumer's voice to the public debate on OBSI's institutional design, governance, mandate, and terms of reference as well as advising OBSI on its website's suitability for senior consumers. With a revised Board governance structure, and the formal approval of OBSI as a third party complaints body by both securities and banking regulators in 2014, the focus of the CIAC has turned to OBSI's level of outreach to potential complainants and to identifying impediments to vulnerable complainants in navigating the system.

The CIAC's mandate as an advisory council to the OBSI Board is to bring a consumer perspective to bear on matters referred to it by the Board and to bring consumer issues to the Board's attention on its own initiative. The CIAC meets every month as a group, and usually receives a briefing from the Ombudsman on current issues and may respond to requests for input on particular matters. The CIAC has provided comment on issues such as the OBSI's mandate, terms of reference and institutional design, and ways to enhance outreach and access for consumers with various vulnerabilities. Members are appointed from across Canada. Since the approval of OBSI as the sole dispute resolution provider for all registered securities dealers and advisors, the CIAC has paid particular attention to investor disputes.

Comments on the Independent Evaluation

The current External Reviewer's terms of reference are set by securities regulators as required by a memorandum of understanding (MOU) between provincial securities commissions and OBSI.. The MOU is restricted to OBSI's daily operations in handling complaints against provincially regulated entities. The terms of reference are clearly not intended to address global defects in OBSI's institutional design or in its external reporting and accountability, nor issues relating to its banking complaint mandate. However in our view, OBSI's effectiveness as a service established to assist consumers to resolve any complaints, whether banking or investment, about their financial service providers is inextricably linked to the existence of a clear mandate and a robust supervisory and support structure beyond its contractual relationship with member firms and beyond the fiduciary duties of its Board of Directors.

Introduction

Banking and securities regulators, operating independently, have approved parallel consumer complaint systems both featuring OBSI. These aim to remedy the imbalance in resources and information that exists where a typical consumer has a dispute with a financial services firm. OBSI is but one component of what should be an accessible, integrated consumer complaint process, which begins with the consumer deciding they have a financial service problem and raising it with the provider, and may or may not end with an OBSI recommendation and its

outcome. OBSI is a stage in the prescribed complaint process. We think that any review of OBSI's conformity with the standards set out by securities regulators in the Canadian Securities Administrators' (CSA's) MOU must also evaluate the overall complaint system from a consumer-user's perspective. The review should consider whether OBSI's role at one stage of the prescribed complaint process is appropriately integrated with the overall process, from the bottom-up perspective of consumers.

Prescribed Regime

The vast majority of Canadian consumers deal with financial services conglomerates that offer them a mixture of relationships and services that are not obviously differentiated along regulatory, legal, business or constitutional lines. Yet the consumer complaint regime is rife with these distinctions. A customer of an integrated financial conglomerate who has a complaint is subject to some or all of the four complaint sets of rules summarized in Attachment A. While we recognize there is an established jurisdictional and administrative patchwork that lies behind the complaint system, we believe that banking and securities regulators, and financial services firms, can do more to relieve consumers from the unintended consequences of this and to assist and support OBSI's role.

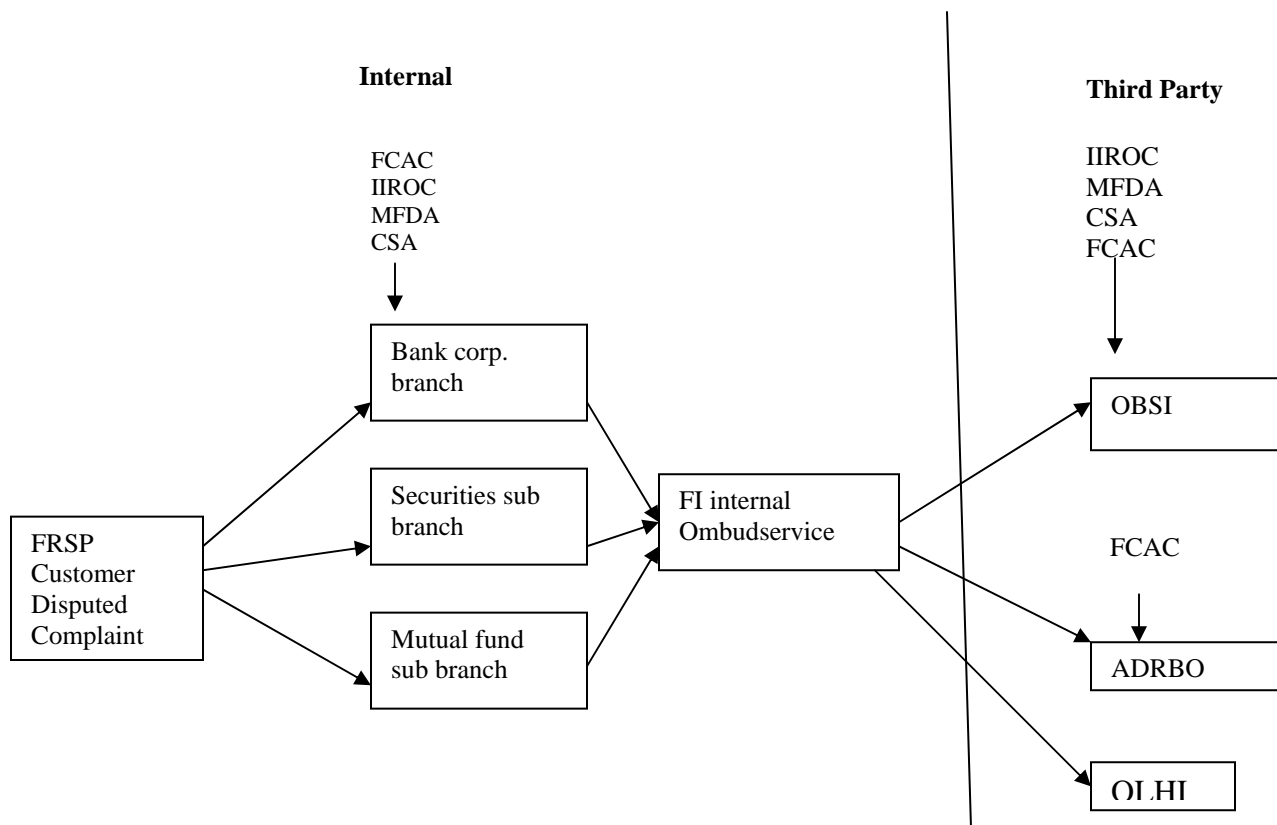
OBSI has a vital role in consumer dispute resolution, for customers with service complaints as well as banking losses and in particular as the only practical recourse for most consumers who suffer investment losses. OBSI's role should be integrated into a simple, rational complaint system that users can easily understand, access, and navigate it both before and after OBSI becomes involved. Ensuring this outcome for consumers is the collective responsibility of the financial sector regulators who have devised and mandated the current consumer complaint pathway.

Because OBSI's role is so prominent from a consumer's perspective, there is a natural tendency for dissatisfied consumers to blame OBSI for perceived shortcomings in the regulatory system and, particularly, for failing to ensure that financial firms comply with their obligation to act fairly, honestly and in good faith. This misconception is most problematic in cases where OBSI recommends that a consumer be compensated and the firm chooses not to accept that recommendation.

In fact, OBSI has no role in the design or enforcement of the regulatory system, nor is it appropriate for OBSI to advocate for changes to its own mandate. OBSI's responsibility is simply to carry out the responsibilities assigned to it by the regulators, as effectively and efficiently as possible. We believe that it is extremely important to distinguish between concerns about OBSI's performance of its assigned duties (which OBSI must address), and concerns about OBSI's mandate and the performance of the regulatory dispute-resolution process (which must be addressed by banking and securities regulators). In our view, the most serious concerns relating to OBSI fall into the latter category, and can only be addressed as part of coordinated improvements to the consumer complaint system.

The Complaint Pathway

The need for regulators to address the overall system can be illustrated by considering the complaint pathway of a typical customer of an integrated financial services conglomerate, as diagrammed below:



The overall process is directed by separate regulators who have prescribed separate operational principles. The consolidation of most FIs' banking and securities and life insurance (segregated fund) complaints in one internal department reflects the typical reasonable consumer perception of an integrated FRSP. In financial conglomerates, the same office usually deals with both Bank Act and NI 31-103 complaints. Yet if the consumer does not accept the internal decision, the path for the consumer diverges depending on whether it is legally a banking, securities or insurance complaint. If banking, the complaint may go to OBSI or ADRBO. If a segregated fund (a form of life insurance indistinguishable to most consumers from a mutual fund) is involved, the complaint goes to the OmbudService for Life and Health Insurance (OLHI). If it is a securities complaint, it goes to OBSI but subject to a different oversight regime and governing principles than a banking complaint.

1. Consumer formulates complaint

A number of published studies confirm that Canadian consumers in general have a low level of financial literacy, yet most financial information and mandatory disclosure requires a high degree of literacy and numeracy. It is also recognised that some groups of consumers are disadvantaged in formulating an informed response to the communications from financial services providers due to language, cultural and cognitive factors. A typical consumer of the banking and investment services of financial services conglomerate is deluged with information from many sources some of which is prescribed disclosure, some is developed by internal legal staff, and some of which is for marketing, educational or administrative purposes. This information is not generally presented to consumers unbundled along banking, insurance and securities regulatory lines. Consumers may well not appreciate that different regulatory structures may underlie the services they are receiving. If there is a suitability or churning issue underlying losses in an investment account, most investors are not equipped to assess or even detect these issues given the complexity of the analysis involved.

There can be a multi-stage internal process prior to an OBSI referral. From a consumer point of view, the bank or dealer's internal complaint process and the third party dispute resolution process are a continuum, and the distinctions among them may not be apparent. Consumers may not differentiate between the complaint at the branch level, the formal referral to the FI's internal reviewer or ombudsman and a referral to OBSI.

The potential for confused customer expectations starts with the various complaint options set out in firms' mandatory complaint brochures. Provincial regulations call for "an independent dispute resolution or mediation service" and federal regulations call for an "external complaints body". Neither call for an ombudservice. OBSI and its CEO are formally designated as an "ombudsman", but it is not clear that that OBSI is actually empowered or expected by regulators to fulfill the role normally associated with this designation. It is arguable that OBSI has a different role for banking and securities complaints. Some firms also describe their internal complaint handling office as an "Ombudsman", although the prescribed internal practices do not resemble an ombudservice.

Unnecessary legal complexity imposes a burden on all elements of the system that is ultimately borne by the consumer. Consumers should not be expected to appreciate fine distinctions between federal and provincial regulatory mandates, legal niceties of the relationships with financial service provider or subtle differences in financial instruments in order to properly pursue a complaint which may itself be complex, for example a complaint involving responsibility for investment losses or the spread on a debt instrument. This especially true when the complaint is brought against a comparatively well-resourced financial institution that is resisting their concerns. Ideally, customers should not require paid expert assistance. There should be no unnecessary barriers arising from literacy, process complexity, substantive complexity or internal cultural resistance, or delay in formulating and pursuing a complaint, particularly one that is resisted by the management of the FRFI. Regulators should not be tolerant of this and should not contribute to it.

Customers should expect simplicity, efficiency, transparency and closure from a complaint system. The following are some basic questions that should be easily for consumer to answer when they identify a problem:

1. Who is the compliant against?
2. Where do I get all the information I need about how to formulate and pursue my complaint?
3. Where do I start?
4. What are the steps to a resolution?
5. How do time restrictions work?

These questions are currently are not easily answered for reasons that are outside OBSI's power to remedy. While the individual complaints are confidential, we suggest that regulators should scrutinize the initial phase of the complaint process to ensure that consumers obtain clear and consistent information about how to formulate and pursue complaints, including an explanation of the overall process and OBSI's role in that process.

2. Accessing the System and Gathering Data

Since 2013, it has been mandatory for federally regulated banks to publish consolidated complaint data as specified in s. 4 of SOR 2013-46. This is also addressed as follows in CG-12 “Internal Dispute Resolution”:

“The Regulations also require that, on an annual basis, banks and authorized foreign banks must publicly report information on their complaint-handling processes. Specifically, the regulations require reporting on the following:

- the number of complaints that were dealt with by the officer or employee designated by the bank or authorized foreign bank to deal with complaints who holds the most senior position identified for that purpose in the procedures established by the bank or authorized foreign bank
- the average length of time taken by that officer or employee to deal with the complaints
- the number of complaints that, in the opinion of the bank or authorized foreign bank, were resolved by that officer or employee in accordance with those procedures to the satisfaction of the person who made the complaint.

Banks and authorized foreign banks must ensure that adequate procedures are established to meet this annual reporting requirement. For the purpose of the Regulations, the procedures must specify the role which holds the most senior position designated by the bank or authorized foreign bank to deal with complaints (e.g. Bank Ombudsman). Furthermore, banks and authorized foreign banks must establish clear timeframes for the public reporting and identify an appropriate mechanism or document through which the reporting requirement will be made public (e.g., Annual Report, Public Accountability Statement, etc.).”

There was presumably a policy purpose for requiring that this information be made available to the public, so the CIAC looked for this information in the same way we would expect an interested consumer to look for it. We contacted publicly available sources for some federally regulated financial institutions (FRFIs), chosen because they provide integrated banking and securities services to Canadian consumers. This is not exhaustive, nor scientific, research but the results do suggest a significant gap between the purpose of this regulation and its effect. It also illustrates the larger problem -- a disconnect between the goals of the regulators and the actual consumer experience with the complaint system.

A. Inquiry of FRFI and FCAC Staff Regarding s. 4 Data

	Call center response to request for location of s. 4 information	Ease of Access and Location
BMO	Attempted but unable to locate information on website. Referred inquiry to federal Office of the Privacy Commissioner	Not easily found on website “Making Tomorrow Better 2015 Environmental, Social and Governance Report and Public Accountability Statement” p. 5
CIBC	Doesn’t publish. Data sent to OBSI. Go to OBSI website	Not easily found on website “CIBC 2015 Corporate Responsibility Report and Public Accountability Statement” PDF p. 39
HSBC	Attempted but unable to locate information on “complicated” website	Not easily found on website “Resolving your Complaints in 2014 How Did We Do?”

National Bank	Complaint information can only be disclosed on request by the Minister. Never heard of s. 4. Contact legal team in branch, only they would know about it.	Fairly easily found on website. Click on “Highlights” under Complaint Settlement
RBC	Bank doesn’t publish. Call Better Business Bureau.	Easily found on website “RBC Office of the Ombudsman 2015 Annual Report”
Scotia	Call 1. Has never heard of this, refer call to Office of President. Call 2. Office of President returned call, must consult Privacy Commissioner, will call back next day. Call 3. Returned call after two business days later, directed to correct link.	Easily found on website “2014 Annual Report of Scotiabank Ombudsman”
TD	Call 1. Not in Bank Act. Requirement does not exist. Call 2. Ask in branch for questions regarding legal and complaints process	Not easily found on website “Ombudsman Annual Report 2014”
FCAC	Email query acknowledged. Phone call response over a week later.	Not available on FCAC website Not compiled by FCAC Probably in individual banks’ annual reports

The s. 4 data is not readily accessible on most FRFI websites. Only one of the FRFIs, Scotia, had public inquiry staff that acknowledged the existence of s. 4 data and were able to direct the caller inquirer to the right link, albeit after a two day wait. Scotia also published the most detailed complaint data, which was easy to find on its website.

The Financial Consumer Agency of Canada (FCAC) is responsible for monitoring compliance with s. 4. Section 4 data is not referred to on the FCAC website. There appears to be no effort on the part of the FCAC to present this data, signal its existence or supervise compliance with s. 4. A test email query sent to the FCAC as to where to find this data was acknowledged, but the response over a week later was incorrect. The spirit of the requirement seems to be ignored by regulators and regulated alike and is inaccessible to most consumers.

B. Review of Published Data

With difficulty the CIAC was able to access the s. 4 data published by all the FRFIs sampled. The results are shown below consolidated with data from the ADRBO and OBSI annual reports for 2013-2015.

FRFI	Date	Data Reported under s. 4			Referred to OBSI or ADRBO		Total Customers
		Number of Complaints	Av Length	Customer not satisfied	Banking (OBSI/ADRBO)	Securities (OBSI)	
BMO	2015	181 banking, 51 securities	Not reported	Not reported	38	5	7 M
	2014	204 banking 0 securities	Not reported	Not reported	26	23	
CIBC	2015	169	22	70	38	19	11M
	2014	153	21	77	37		
	2013	Not reported			42	10	
HSBC	2015	Not available			20	2	
	2014	57	16	24	1		
	2013	Not reported			19	2	
National Bank	2015	Not available			33	7	2.4M
	2014	543 banking 19 securities	71	419	17	28	
	2013	Not available			15	29	
RBC	2015	499 banking 67 securities	69	316	69	20	10M
	2014	403 banking 41 securities	47	254	62	20	
	2013	262 banking 82 securities	N/A	184 banking 74 securities	62	28	
Scotia	2015	524	38*	324	98	28	21M globally
	2014	326	40*	291	81	27	
	2013	267	31*	261	56	13	
TD	2015	N/A			96		12M
	2014	383	43	217	103	15	
	2013	461	N/A	391	90	24	

Compliance with the s. 4 requirement is inconsistent. While the publication of the data is a federal requirement relating to banking complaints only, some FRFIs publish it from all activities including securities regulated by IIROC, and the MFDA, reflecting the integration of their services from a business perspective. Data is not published in a form or location easily comparable from one FRFI to another. It is variously published in a free standing document, as a click on the FRFIs website, part of an internal ombudsman’s annual report, or buried in an omnibus compendium of the FRFI’s public interest accomplishments. Securities and banking complaints data are sometimes merged, sometimes broken out. The actual number required under s. 4 may have to be computed by the customer

* Weighted averages calculated by CIAC

It is interesting to note that in 2014 in the sample of FRFIs above, excluding BMO which did not report, 1262 banking and securities complaints were reported as not resolved internally to the clients' full satisfaction. In the same year, there were 398 referrals to the independent ombudservices OBSI and ADRBO by FRFIs excluding BMO. What happened to the 884 unresolved complaints?

By contrast the UK Financial Ombudsman Service opened 512,167 cases in the 2013-2014 year. The Australian Financial Ombudsman Service, with a capital market more comparable to Canada's, reports 23,454 accepted disputes (including insurance) for 2013-2014 and the Australian Credit Ombudsman Service alone reports 4513 complaints received in 2013-14.

While direct comparisons cannot be made to UK and Australian complaint data, given the number of banking and investment customers in Canada, the Canadian numbers for FRFIs seem small. We are concerned that consumers who initiate a complaint may drop out of or be diverted from the process prematurely, because they do not have the stamina or the sophistication to pursue their complaint. We are also concerned that consumers who may have a legitimate complaint may not be aware of it or be able to formulate it or manage the complaint system.

Regulators should make sure that the data needed to assess whether the complaint scheme is working for consumers is readily available by establishing integrated consumer-centric metrics that are comparable throughout the complaint process. Leaving the method of data presentation up to the individual regulated entity in this instance is not effective to achieve the apparent regulatory purpose. In our view, this data is important to both consumers and regulators, and should be publicly available in a clear format that facilitates comparison between FRFIs. We also suggest that this result is symptomatic of a weakness in the operation of the overall complaint system, viewed from a consumer perspective.

3. Outcome of OBSI Recommendation

Banking and securities regulators have approved the complaint system in its present form, which allows a financial services firm to reject an OBSI recommendation made in favour of the complainant. The only consequence of a refusal is the publication of OBSI's recommendation and the firm's refusal, the so called "name and shame" lever. There are no documented refusals to date for service complaints or banking complaints. This, however, has not been the case for investment loss complaints against the securities registrants that are covered by the MOU. Where a firm is unconcerned with the reputational damage of a published refusal, and there are significant sums in issue, the customer who has suffered a financial loss is left with no recourse but to accept a "lowball offer" or resort to the courts. We believe regulators must reconsider binding authority on firms for OBSI recommendations that compensate for financial losses.

As a separate incentive to comply with a recommendation, a securities registrant's refusal to comply might fall afoul of its duty to deal fairly, honestly and in good faith with clients under MFDA, IIROC and CSA rules, prompting a referral of the matter to regulators. However, this

does not apply to banking complaints and might fall afoul of the current confidentiality restrictions.

The OBSI governing principle of fairness suggests that a firm objecting to a binding OBSI decision should have recourse beyond the OBSI decision. Firms facing a binding decision and looking to an appeal process might be more adversarial in their participation in the complaint process, undermining the OBSI's effectiveness to produce quick, fair, inexpensive resolutions to disputes. The appeal process should not evolve into a court-like proceeding. Referral of an OBSI decision for a second opinion on facts and principles should not encumber the complaint process with procedural complexity. This would defeat the purpose of the complaint system, as a practical alternative to having to resort to the courts. Particularly on the securities side, disputes may be conceptually complex and involve considerable financial hardship to the consumer. Creative solutions are required to ensure that consumers can obtain fair, timely redress outside of the civil courts with a process that does not overwhelm them by replicating court or administrative tribunal proceedings.

ATTACHMENT A

Item	Provincial	Federal	SRO	
			IIROC	MFDA
Relevant instruments	National Instrument 31-103 National Instrument 31-103 Companion Policy Memorandum of Understanding between participating CSA members and OBSI	Bank Act Financial Consumer Agency of Canada Act Complaints (Banks Authorized Foreign Banks and External Complaints Bodies) Regulations SOR 2013-45 CG-12 Internal Dispute Resolution guidance	Rule 3100 Reporting and Recordkeeping Requirements Rule 2700 Minimum Standards For Institutional Customer Account Opening, Operation and Supervision Rule 2500B: Client Complaint Handling NI 31-103 s. 16	MFDA Rule 2.11 MFDA Policy No. 3 Complaint Handling, Supervisory Investigation and Internal Discipline and Appendix 1 Client Complaint Information Form MFDA Staff Notice MSN-0073 NI 31-103 s. 16
Responsible Agency for complaints	Provincial securities commissions – registered dealer and portfolio manager subsidiaries including SRO members	Minister of Finance -- banking services	Investment Industry Regulator f Canada – full service dealer subsidiaries	Mutual Fund Dealers Association -- mutual fund dealer subsidiaries
Delegated Supervisory Body	JRC consisting of BCSC, ASC and OSC IIROC and MFDA	FCAC	IIROC	MFDA
Service user defined	Client (NI 31-103)	Person (Bank Act)	Client	Client
Complaint Statements of Principle	13.15 Handling complaints A registered firm must document and, in a manner that a reasonable investor would consider fair and effective, respond to each complaint made to the registered firm about any product or service offered by the firm or a representative of the firm. [NI 31-103]	None stated	IIROC Rule 2500B 4. Complaint procedures / standards Establish written procedures for dealing with complaints Dealer Members must have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously. Such policies and procedures must address the following: <ul style="list-style-type: none"> • the fair and thorough investigation of the complaint; • the process by which an assessment is made regarding the merit of the complaint; • where the complaint is determined to have merit, the process to be followed in determining what offer should be made to the client; and • the remedial actions which may be appropriate to be taken within the firm. Policies and procedures must not allow for complaints to be dismissed without due consideration of the facts of each case. There must be a balanced approach to dealing with complaints that objectively considers the interests of the	MFDA Rule 2.11 Members to establish and implement written policies and procedures for dealing with client complaints that ensure that such complaints are dealt with promptly and fairly.

ATTACHMENT A

			<p>complainant, the Dealer Member, the registered representative, employee or agent of the Dealer Member, and/or any other relevant parties. Each Dealer Member must ensure that registered representatives and their supervisors are made aware of all complaints filed by their clients.</p>	
<p>Scope of matters dealt with – definition of complaint</p>	<p>NI 31-1-0 s. 13.16 "complaint" means a complaint that (a) relates to a trading or advising activity of a registered firm or a representative of the firm, and (b) is received by the firm within 6 years of the day when the client first knew or reasonably ought to have known of an act or omission that is a cause of or contributed to the complaint [NI 31-103]</p>	<p>Complaint by a person to a bank about a product or service that was requested or received by that person from the bank</p>	<p>A recorded expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct; and • A verbal expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct where a preliminary investigation indicates that the allegation may have merit.</p> <p>NI 31-103 s. 13.16 also applies</p>	<p>Any written or verbal statement of grievance, including electronic communications</p> <p>NI 31-103 s. 13.16 also applies</p>
<p>Prescribed complaint pathway - internal</p>	<p>NI 31-103</p> <p>13.16 (2) If a registered firm receives a complaint from a client, the firm must, as soon as possible, provide the client with a written acknowledgement of the complaint that includes the following: (a) a description of the firm's obligations under this section; (b) the steps that the client must take in order for an independent dispute resolution or mediation service to be made available to the client under subsection (4); (c) the name of the independent dispute resolution or mediation service that will be made available to the client under subsection (4) and contact information for the service.</p> <p>(3) If a registered firm decides to reject a complaint or to make an offer to resolve a complaint, the firm must, as soon as possible, provide the client with written notice of the decision and include the information referred to in subsection (2).</p> <p>(4) A registered firm must as soon as possible ensure that an independent dispute resolution or mediation service is made available to a client at the firm's expense with respect to a complaint if either of the following apply:</p> <p>(a) after 90 days of the firm's receipt of the complaint, the firm has not given the client written notice of a decision under subsection (3), and the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service;</p> <p>(b) within 180 days of the client's receipt of written notice of the firm's decision under subsection (3), the client has notified the independent dispute resolution or mediation service specified</p>	<p align="center">Bank Act</p> <p align="center">455 (1) A bank shall</p> <p>(a) establish procedures for dealing with complaints made by persons having requested or received products or services in Canada from a bank;</p> <p>(b) designate an officer or employee of the bank to be responsible for implementing those procedures; and</p> <p>(c) designate one or more officers or employees of the bank to receive and deal with those complaints.</p> <p align="center">SOR 2013-48</p> <p>Information regarding complaint procedures</p> <p>3 A bank or an authorized foreign bank must inform a person who makes a complaint to it about the procedures that it has established</p>	<p>IIROC Rule 2700 V. Client Complaints</p> <p>1. Each Dealer Member must establish procedures to deal effectively with client complaints.</p> <p>(a) The Dealer Member must acknowledge all written client complaints.</p> <p>(b) The Dealer Member must convey the results of its investigation of a client complaint to the client in due course.</p> <p>(c) Client complaints involving the sales practices of a Dealer Member, its partners, Directors, Officers or employees must be in writing and signed by the client and then handled by sales supervisors or compliance staff. Copies of all such written submissions must be filed with the compliance department of the Dealer Member.</p> <p>(d) Each Dealer Member must ensure that Registered Representatives and their Supervisors are made aware of all complaints filed by their clients.</p> <p>IIROC Rule 2500B The Dealer Member must send a substantive response letter to the complainant. The substantive response letter must be accompanied by a copy of a Corporation approved complaint handling process brochure. Dealer Members must respond to client</p>	

ATTACHMENT A

	<p>under paragraph (2)(c) that the client wishes to have the complaint considered by the service.</p> <p>(5) Subsection (4) does not apply unless the client agrees that any amount the client will claim for the purpose of the independent dispute resolution or mediation service’s consideration of the complaint will be no greater than \$350,000.</p> <p>(6) For the purposes of the requirement to make available an independent dispute resolution or mediation service under subsection (4), a registered firm must take reasonable steps to ensure that OBSI will be the service that is made available to the client.</p>	<p>under paragraph 455(1)(a) or 573(1)(a) of the Act for dealing with complaints and must provide the person with any information that is necessary to enable them to meet the requirements of those procedures.)</p>	<p>complaints as soon as possible and no later than ninety (90) calendar days from the date of receipt by the firm. The ninety (90) days timeline must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client. The client must be advised if he / she is not to receive a final response within the ninety (90) days time frame, including the reasons for the delay and the new estimated time of completion.</p> <p>The Dealer Member is required to advise the Corporation if it is unable to meet the ninety (90) days timeline and must provide reasons for the delay.</p> <p>The substantive response must be presented in a manner that is fair, clear and not misleading to the client,</p> <p>...</p> <p>In addition, where an internal ombudsman process is offered by an affiliate of the Dealer Member, the Dealer Member must disclose in the substantive response letter:</p> <p>(a) that the use of the internal ombudsman process is voluntary; and</p> <p>(b) the estimated length of time the process is expected to take based on historical data.</p> <p>NI 31-103 s. 13.16 also applies</p>	
<p>Firm Publication of Complaint data</p>	<p>None required</p>	<p>Make public annually # of complaints, average length of time to resolve, number resolved to satisfaction of complainant</p>	<p>None required</p>	<p>None required</p>
<p>Internal Complaint Guidance</p>	<p>NI 31-103CP 13.15 Handling complaints General duty to document and respond to complaints Section 13.15 requires registered firms to document complaints, and to effectively and fairly respond to them. We are of the view that registered firms should document and respond to all complaints received from a client, a former client or a prospective client who has dealt with the registered firm (complainant). Firms are reminded that they are required to maintain records which demonstrate compliance with complaint handling requirements</p>	<p align="center">CG-12 Effectiveness</p> <p>FRFIs must be able to demonstrate that they have implemented effective policies and procedures designed to achieve the effective resolution of consumer complaints. This can be achieved by making sure that the policies</p>	<p>IIROC Rule 2700</p> <p>V. Client Complaints</p> <p>1. Each Dealer Member must establish procedures to deal effectively with client complaints.</p> <p>(a) The Dealer Member must acknowledge all written client complaints.</p> <p>(b) The Dealer Member must convey the results of its investigation of a client complaint to the client in due course.</p>	<p>MFDA Policy No. 3 7. Fair Handling of Client Complaints To achieve the objective of handling complaints fairly, Members’ complaint handling procedures must include standards that allow for a factual investigation and an analysis of the matters specific to the complaint. Members must not have policies that allow for complaints to be dismissed without due consideration</p>

ATTACHMENT A

<p>under paragraph 11.5(2)(m).</p> <p>Complaint handling policies An effective complaint system should deal with all formal and informal complaints or disputes in a timely and fair manner. To achieve the objective of handling complaints fairly, the firm’s complaint system should include standards allowing for objective factual investigation and analysis of the matters specific to the complaint. We take the view that registered firms should take a balanced approach to the gathering of facts that objectively considers the interests of</p> <ul style="list-style-type: none"> • the complainant • the registered representative, and • the firm <p>Registered firms should not limit their consideration and handling of complaints to those relating to possible violations of securities legislation.</p> <p>Complaint monitoring The firm’s complaint handling policy should provide for specific procedures for reporting the complaints to superiors, in order to allow the detection of frequent and repetitive complaints made with respect to the same matter which may, on a cumulative basis, indicate a serious problem. Firms should take appropriate measures to deal with such problems as they arise.</p> <p>Responding to complaints Types of complaints All complaints relating to one of the following matters should be responded to by the firm by providing an initial and substantive response, both in writing and within a reasonable time: • a trading or advising activity • a breach of client confidentiality • theft, fraud, misappropriation or forgery • misrepresentation • an undisclosed or prohibited conflict of interest, or • personal financial dealings with a client Firms may determine that a complaint relating to matters other than the matters listed above is nevertheless of a sufficiently serious nature to be responded to in the manner described below.. This determination should be made, in all cases, by considering if an investor, acting reasonably, would expect a written response to their complaint. When complaints are not made in writing We would not expect that complaints relating to matters other than those listed above, when made verbally and when not otherwise considered serious based on an investor’s reasonable expectation, would need to be responded to in writing. However, we do expect that verbal</p>	<p>and procedures are well understood and are being followed by those involved. When evaluating the effectiveness of the policies and procedures, FCAC will consider whether the following can be demonstrated:</p> <p align="center">organizational commitment adequate resources training for staff, and monitoring and reporting systems.</p> <p align="center">3.1 Accessibility for consumers</p> <p>FRFIs must demonstrate that they have taken appropriate steps and have appropriate procedures in place to provide consumers with information about their IDR process. Legislation requires that FRFIs make their complaint-handling procedures available:</p> <p align="center">in brochures on their website, and in writing, upon request.</p> <p>FRFIs can also look for other ways to ensure that consumers know about the IDR process at key points during the process.</p> <p>FRFIs must demonstrate the accessibility of</p>	<p>(c) Client complaints involving the sales practices of a Dealer Member, its partners, Directors, Officers or employees must be in writing and signed by the client and then handled by sales supervisors or compliance staff. Copies of all such written submissions must be filed with the compliance department of the Dealer Member. (d) Each Dealer Member must ensure that Registered Representatives and their Supervisors are made aware of all complaints filed by their clients.</p> <p>2. All pending legal actions must be made known to head office.</p> <p>3. Each Dealer Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions.</p> <p>4. Each Dealer Member must maintain an orderly record of complaints together with follow-up documentation for regular internal/external compliance reviews. This record must cover the past two years at least.</p> <p>IIROC members exempt from s. 13.15 of NI 31-103</p>	<p>of the facts of each case. There must be a balanced approach to the gathering of facts that objectively considers the interests of the complainant, the Approved Person and the Member. The basis of the Member’s analysis must be reasonable. For example, a suitability complaint must be considered in light of the same principles that would be applied by a reasonable Member in conducting a suitability review, which would include an acknowledgement of the complainant’s stated risk tolerance. It would not be reasonable for a Member to assess suitability based on a risk level presumed by the Member that is higher than that indicated by the complainant.</p> <p>8. Prompt Handling of Client Complaints The Member must handle the complaint and provide its substantive response within the time period expected of a Member acting diligently in the circumstances. The time period may vary depending on the complexity of the matter. The Member should determine its substantive response and notify the complainant in writing in most cases within three months of receipt of the complaint. Further, staff recognizes that, if the complainant fails to co-operate during the complaint resolution process, or if the matter requires an extensive amount of fact-finding or complex legal analysis, time frames for the substantive response may need to be extended. In cases where a substantive response will not be provided within three months, the Member must advise the complainant as such, provide an explanation for the delay and also provide the Member’s best estimate of the time required for the completion of the substantive response. It is not required that the complainant accept the Member’s substantive response.</p>
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ATTACHMENT A

	<p>complaints be given as much attention as written complaints. If a complaint is made verbally and is not clearly expressed, the firm may request the complainant to put the complaint in writing and we expect firms to offer reasonable assistance to do so. Firms are entitled to expect the complainant to put unclear verbal issues into written format in order to try to resolve confusion about the nature of the issue. If the verbal complaint is clearly frivolous, we do not expect firms to offer assistance to put the complaint in writing. The firm may nonetheless ask the complainant to put the complaint in writing on his or her own.</p> <p>Timeline for responding to complaints Firms should</p> <ul style="list-style-type: none"> • promptly send an initial written response to a complainant: we consider that an initial response should be provided to the complainant within five business days of receipt of the complaint • provide a substantive response to all complaints relating to the matters listed under “Types of complaints” above, indicating the firm’s decision on the complaint A firm may also wish to use its initial response to seek clarification or additional information from the client. Requirements for providing information about the availability of dispute resolution or mediation services paid for by the firm are discussed below. We encourage firms to resolve complaints relating to the matters listed above within 90 days (NI 31-103CP) 	<p>their IDR process by ensuring that the information they provide to consumers about their IDR process meets the following criteria:</p> <ul style="list-style-type: none"> provides details on how consumers can complain to the FRFI (e.g. by letter, telephone, in person or electronically) is written in language that is clear, simple and not misleading presents information that enables consumers to understand the entire IDR process, including their rights and responsibilities provides details for continued communication with consumers and informs them of the next steps, which allows them to navigate the complaint process confidently provides information about how consumers can contact FCAC, as set out in the legislation. <p align="center">2. Efficiency</p> <p>A FRFI should have policies and procedures that lead to the comprehensive assessment and timely resolution of consumer complaints, both internally and in the context of addressing complaints brought to its external complaints body.</p>		<p>Where the Member has communicated its substantive response, the Member must continue to proactively address further communications from the complainant in a timely manner until no further action on the part of the Member is required.</p> <p>MFDA members exempt from s. 13.15 of NI 31-103</p>
OBSI defined	Independent dispute resolution or median service (NI 31-103)	External complaints body (ECB) (Bank Act)	Independent dispute resolution or median service (NI 31-103)	Independent dispute resolution or median service (NI 31-103)
Complaint pathway –external	4) A registered firm must as soon as possible ensure that an independent dispute resolution or mediation service is made available to a client at the firm's expense with respect to a		Governed by NI 31-103	Governed by NI 31-103

ATTACHMENT A

	complaint if either of the following apply: (a) after 90 days of the firm's receipt of the complaint, the firm has not given the client written notice of a decision under subsection (3), and the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service; (b) within 180 days of the client's receipt of written notice of the firm's decision under subsection (3), the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service			
OBSI Approval	MOU states that OBSI has established an accessible and effective system to resolve investor complaints based on standards acceptable to CSA	<p align="center">FCAC ECB approval criteria include</p> <p align="center">the ability of the body corporate to deal with complaints made by persons having requested or received products or services from its members, that have not been resolved to the satisfaction of those persons as described above</p> <p align="center">the reputation of the body corporate for being operated in a manner that is consistent with the standards of good character and integrity</p> <p align="center">the ability of the body corporate to be accessible, accountable, impartial and independent, and to discharge its functions and perform its activities in a transparent, effective, timely and cooperative manner</p> <p align="center">the policies, procedures and terms of reference governing its functions and activities that would enable it to meet the conditions under Section 7 of the Regulations.</p>	Governed by NI 31-103	Governed by NI 31-103
Referral to OBSI/ADRBO	NI 31-103 (4) A registered firm must as soon as possible ensure that an	Bank Act	Governed by NI 31-103	Governed by NI 31-103

ATTACHMENT A

	<p>independent dispute resolution or mediation service is made available to a client at the firm's expense with respect to a complaint if either of the following apply: (a) after 90 days of the firm's receipt of the complaint, the firm has not given the client written notice of a decision under subsection (3), and the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service; (b) within 180 days of the client's receipt of written notice of the firm's decision under subsection (3), the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service. (5) Subsection (4) does not apply unless the client agrees that any amount the client will claim for the purpose of the independent dispute resolution or mediation service's consideration of the complaint will be no greater than \$350,000. (6) For the purposes of the requirement to make available an independent dispute resolution or mediation service under subsection (4), a registered firm must take reasonable steps to ensure that OBSI will be the service that is made available to the client.</p>	<p>455.1 (1) The Minister may, for the purposes of this section, designate a body corporate incorporated under the <i>Canada Not-for-profit Corporations Act</i> whose purpose, in the view of the Minister, is dealing with complaints, made by persons having requested or received products or services from its member financial institutions, that have not been resolved to the satisfaction of those persons under procedures established by those financial institutions under paragraph 455(1)(a). (Bank Act)</p>		
<p>External Complaint Assessment Standards</p>	<p>When determining what is fair, OBSI should take into account general principles of good financial services and business practice, and any relevant laws, regulatory policies, guidance, professional standards and codes of practice or conduct. (MOU)</p>			
<p>External Process Accessibility</p>	<p>Accessibility – OBSI should promote knowledge of its services, ensure that investors have convenient, well identified means of access to its services, and provide its services at no cost to investors who have complaints</p>			
<p>Definition of systemic issues</p>	<p>None</p>	<p>A systemic issue is a compliance issue that could affect multiple consumers and/or could potentially have market-wide implications. Generally, these issues are deemed to not be isolated in nature (i.e., individual employee error) and often stem from more wide-spread procedural or documentation issues within the regulated entity.(FCAC website)</p>	<p>None</p>	<p>None</p>

ATTACHMENT A

Provision for OBSI referral of Systemic Issues	MOU provides OBSI Chair will inform CSA of issues impacting regulatory system, dispute resolution system or multiple customers	OBSI must advise FCAC Commissioner in writing if a complaint raises a systemic issue (SOR 2013-48)	None	None
Transparency	MOU excludes sharing customer specific or firm specific information		Governed by NI 31-103	Governed by NI 31-103
Endorsement of Name and shame	MOU states that CSA considers making refusals of recommendations transparent to be an important element of the investor protection framework	None	None	None
OBSI Reporting	Chair reports annually to BCSC OSC and ASC	OBSI submits annual report to FCAC and public including summary of consultations with members and complainants, number of complaints received, number in mandate, number resolved to satisfaction of complainant and time to resolve (SOR 2013-49) The Minister reports to Parliament describing in aggregate form, FCAC's conclusions on the compliance, in that year, of financial institutions and external complaints bodies with the consumer provisions applicable to them (Bank Act)	None	None
Evaluation	2 year after NI 31-103 in force, OBSI will undergo independent evaluation of operations and practices by an external reviewer chosen and mandated by CSA and JRC, every 5 years thereafter	Every 5 years OBSI establishes terms of reference for by third party of its activities as external complaints body in consultation with FCAC with result to be published	Governed by NI 31-103	Governed by NI 31-103