

2012 ANNUAL REPORT

CANADA'S INDEPENDENT BANKING AND INVESTMENT OMBUDSMAN



OMBUDSMAN

for Banking Services and Investments | des Services Bancaires et d'Investissement

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The Ombudsman for Banking Services and Investments (OBSI) is Canada's independent ombudsman for consumers and small businesses with a complaint they can't resolve with their banking services or investment firm.

- Independent not-for-profit organization operating in the public interest.
- May recommend compensation up to \$350,000.
- Free to consumers and small businesses.
- Non-legalistic approach, using principles of fairness to all the parties.
- Fully functional in both English and French. Able to handle inquiries in over 170 languages.
- Investigates complaints about most banking and investment matters including: debit and credit cards; mortgages; stocks, mutual funds, income trusts, bonds and GICs; loans and credit; fraud; investment advice; unauthorized trading; mischarged fees and rates; transaction errors; misrepresentation; and accounts sent to collections.

To conserve the environment and reduce costs, OBSI produced its 2012 Annual Report in electronic format. Should you require a hard copy, please contact us. We would be happy to print one and mail it to you.

This Annual Report covers OBSI's 2012 fiscal year, which ran from November 1, 2011 to October 31, 2012.



Fernand Bélisle
Chair, Board of Directors

Message from the Chair

I join OBSI during a time of transition and increased attention being paid to the role of independent and impartial complaint handling within the Canadian financial consumer protection framework. At a time of transition, especially under heightened scrutiny, there are risks and opportunities to be worked through. To be successful one must ensure that decisions are based on sound reasoning backed by complete information obtained through broad input. OBSI has been careful this past year to ensure it had these in place as some key decisions were made that impact the future of its complaint handling mandate.

The first key decision is one that I am proud to be a part of. OBSI embarked on a renewal of its governance structure that resulted in my appointment as Chair and the addition of several new Directors to the Board to replace several long-serving directors who have guided OBSI to its current level of maturity and success. A single-tier Board has been formed where all Directors, including those nominated by industry, participate equally in all decisions and share a common fiduciary duty to OBSI and its mandate.

The second key decision related to the adoption of OBSI's widely-commented upon approach to loss calculations for complaints involving unsuitable investment advice. Lauded by a global expert in its 2011 independent review of OBSI and emulated by other jurisdictions, this approach had become a focal point for industry stakeholder concern. After extensive consultation, the Board finalized the changes to the methodology that further refined the approach and incorporated some of the thoughtful input provided by various stakeholders. While such



processes take time and energy, they are a key part of ensuring that there is an opportunity for all stakeholders to put their views before the Board of Directors through a public consultation.

The third key decision related to the move to publicly disclose firm refusals of OBSI recommendations for compensation. This was not a move taken lightly. While it is ultimately required under OBSI's Terms of Reference, it had only been used once before in OBSI's seventeen-year history and was intended as a deterrent to ensure firm cooperation with OBSI's conclusions. We are mindful that the effectiveness of OBSI's mandate is dependent upon the voluntary cooperation of firms. In the vast majority of cases this has proven

We are mindful that the effectiveness of OBSI's mandate is dependent on the voluntary cooperation of firms

effective. In a small minority of cases, it has proven to be a limitation that has left investor losses uncompensated. This is a dilemma that will be the subject of much discussion within and between stakeholder groups over the coming year.

Going forward, the lessons of the past year around complete information and broad input continue to resonate. In my first few months as Chair, I have held extensive meetings with various OBSI stakeholders to try to better understand their concerns and aspirations for fair treatment of consumers, investors, and their financial sector firms. Such input is critical for me and the Board to help guide OBSI and its management team through the coming transition that has been set in motion

As we embark on this period of transition, the Board of Directors renews its commitment to ensure that the continual evolution of OBSI's mandate will be consistent with the best interest of all stakeholders and the public interest mandate entrusted to OBSI by the regulators.

Fernand Bélisle, Chair

by regulators at the federal and provincial levels. As a result of a decision by the federal government, OBSI's banking mandate is now being performed in a competitive environment against other potential providers of contracted dispute resolution services. Meanwhile, OBSI's investment mandate is proposed by investment regulators across Canada to be expanded into new areas of the investment sector with new types of firms, investors and potential complaints. We are grateful for the faith in OBSI that such a development signals from the investment regulators. We look forward to embracing this new opportunity.

It falls to me to recognize those who have moved on from OBSI's Board this past year. To my

predecessor, Dr. Peggy-Anne Brown, I offer OBSI's thanks for her many years of dedicated service as Chair and as one of the original Independent Directors of OBSI and the Canadian Banking Ombudsman. I also extend our thanks to our other departing Directors: Danny Gallivan, Lenn Flett, and Ed Legzdins for their years of dedicated service on the Board and commitment to OBSI's mandate.

After a few short months, I am coming to know OBSI's staff and management team. They perform a challenging job each day under intense scrutiny and with an evident passion for pursuing that elusive concept of fairness in circumstances that range from the simply surreal to the highly complex. I join the Board of Directors in thanking them for

their ongoing commitment to delivering on OBSI's mandate to fairly resolve complaints.

As we embark on this period of transition, the Board of Directors renews its commitment to ensure that the continual evolution of OBSI's mandate will be consistent with the best interest of all stakeholders and the public interest mandate entrusted to OBSI by the regulators.



Fernand Bélisle
Chair, Board of Directors



Douglas Melville
Ombudsman

Message from the Ombudsman

Sometimes when all around you is in transition, it is helpful to pull back, reflect, and remember the fundamentals. At OBSI, with all the transitions referred to by our new Board Chair in his Annual Report message, this has truly been one of those years.

The fundamentals for us at OBSI mean continuing to perform each day the important mandate we are tasked with doing in a way that serves the public interest and demonstrates fairness to the parties who come to us with their disputes. Dealing with a wide variety of consumer and investor complaints with integrity, consistency, effectiveness and efficiency is a challenge that occupies the entire team of professionals at OBSI every day. It is not easy to stay focused when the inevitable criticism comes from the party to a complaint whose point of view was not successful when our conclusion is reached.

Fairness is a rather subjective concept. We all know it when we see it. But we each judge the fairness of a situation from our own point of view. In

each complaint that we handle there are usually at least three points of view: that of the customer, that of the participating financial services firm, and that of OBSI staff. More recently we added a fourth point of view, the general public, when in late 2012 we publicized several investment firm refusals of OBSI recommendations for compensation. There was much public comment about how unfair it was that investors encountered those circumstances that created their losses and then furthermore didn't receive the compensation OBSI determined they were owed.

While the concept of fairness can be subjective in the resolution of a complaint, the fairness and integrity of the process by which we investigate and analyze the facts and reach our conclusions

The Board's efforts this past year to renew OBSI's governance structure will help ensure that management is not only held accountable, but also given the support and clear direction necessary to successfully navigate the complex, ever-changing, and sometimes contentious multi-stakeholder environment we operate within.

—
Douglas Melville, Ombudsman

is far more easily evaluated from an objective viewpoint. We strive to follow, and continually refine and improve, the process by which OBSI conducts its investigations and reaches conclusions on the merits of complaints escalated to our office. Our extensive public consultation and external evaluation of our approach to unsuitable investment complaints and the methodology for determining investment losses is evidence of this commitment to develop and apply a rigorous, fair and consistent approach to our work.

It takes staff with empathy, skill and expertise in the underlying industry to effectively resolve these complaints

Another fundamental is ensuring that we are accountable for what we do. The Board's efforts this past year to renew OBSI's governance structure will help ensure that management is not only held accountable, but also given the support and clear direction necessary to successfully navigate the complex, ever-changing, and sometimes contentious multi-stakeholder environment we operate within. We continue to engage in extensive dialogue with all stakeholder groups to get their input on how we can improve on what we do and to share the observations we form through our in-depth review of hundreds of financial sector complaints each year and thousands of customer inquiries. It is through such feedback that we all get better at serving the public in our own ways.

Finally, it helps to remember that OBSI's work is about people. We are dealing with consumers and investors at a time when they are deeply concerned, sometimes in crisis. It takes staff with empathy, skill and expertise in the underlying industry issues to effectively resolve these complaints. We are fortunate to have a team with great depth in all three of these key attributes. We continue to invest in the training and development of our staff as we recognize they are the critical link between our important mandate and those whom we serve when their unresolved complaints bring them to our door.

To OBSI's staff, thank you for continuing to serve with focus, determination and resiliency during a time of transition. This year a light was shone on some tangible examples of your work when we published some refused recommendations and included the full investigation reports that showed our analysis, conclusions, and recommendations. The excellent quality of the work spoke for itself. To the whole team, I say well done.

There remain two final transitions to note from 2012. On behalf of OBSI's staff and stakeholders, I bid farewell and thank you to our departing Board Chair of many years, Dr. Peggy-Anne Brown. Dr. Brown has been there from the beginning as one of the original independent directors of the Canadian

Banking Ombudsman, the predecessor organization of OBSI. Her steadfast support of the organization and commitment to ensuring the independence and impartiality of the office has benefited all who have been served by this office during its 17-year history.

The second is to recognize the long service of OBSI's Corporate Secretary, Robert Elliott, who left the role at the end of this year. A Partner at the law firm Faskens LLP, Mr. Elliott is one of Canada's foremost experts in financial sector regulatory law. He was part of the initial creation of OBSI's predecessor in 1996 and has provided valued and sage counsel to the Board of Directors and management for many years. His guidance and commitment to OBSI's mandate will be greatly missed.

I also thank our departing directors who leave us after completing their terms of office: Daniel Gallivan from Nova Scotia, Lenn Flett from Manitoba, and Ed Legzdins from Ontario for their many years of commitment, guidance and support to OBSI.

In 2013, we look forward to the new opportunities to serve the public interest and meet the challenges that will come with them.



Douglas Melville
Ombudsman



Dr. Peggy-Anne Brown served as Independent Director from 1996-2012 and as Chair of the Board of Directors from 1997-2012.



Robert Elliott served as Corporate Secretary from 1996-2012.

An aerial photograph of a winding asphalt road through a dense forest. The road curves from the top center towards the bottom right. The forest is a mix of green and yellowish-brown trees. A semi-transparent green rectangular overlay is positioned on the left side of the image, containing the text 'Dispute Resolution' in white, sans-serif font.

Dispute Resolution

Who We Are

The Ombudsman for Banking Services and Investments, or OBSI, is Canada’s national independent dispute resolution service for consumers or small businesses with a complaint they can’t resolve with their financial services firm.

Established in 1996 as an alternative to the legal system, we work confidentially and in a non-legalistic manner to find fair outcomes to unresolved disputes about banking and investment products and services. We are free to clients. Our funding is provided from a levy on all participating firms. If we find an error, misleading advice or other maladministration that has caused a loss to a client, we may recommend compensation up to a maximum of \$350,000. Our independence is assured by a board of directors with a majority of community directors and strong safeguards for our independence and impartiality.

HOW WE WORK

Our staff – with a wide variety of experience and training in financial services, law, accounting, dispute resolution and regulatory compliance – review and investigate unresolved complaints from clients about banking and investment products and services.

If we find the firm has caused a loss, we will recommend a settlement that aims to make the client whole. We may also recommend compensation for inconvenience in the appropriate circumstance, or non-financial actions such as correcting a credit bureau record. If we find the firm has acted appropriately, we will explain to the client why we came to that conclusion.

When we receive a complaint, our assessment team looks at the file to make sure it falls within our mandate. For instance, the firm has to be one of our participating banks, credit unions, investment dealers, mutual fund dealers and managers, exempt market dealers, portfolio managers and scholarship plan dealers. We also look for a final answer from the firm to the client, which allows us to start our review knowing the positions of both firm and client. OBSI will look at complaints where the client is either unsatisfied with their firm’s final response, or at least 90 days have passed since the client first complained to their firm and the complaint remains unresolved. The client must raise the complaint with their firm within six years of when they knew or should have known of the problem.

During an investigation, we gather information from the parties and review the facts of the case. We make decisions based on what’s fair to both the client and the firm, taking into account general principles of good financial services and business practices, the law, regulatory policies and guidance, and any applicable professional body standards, codes of practice, or codes of conduct.

If we believe that the facts of the case do not warrant further review, we will let the client know quickly. We always make sure that we explain our reasons, just as we do when we are recommending compensation.

If we believe compensation is owed to the client, we try to resolve the dispute through a facilitated settlement between the client and firm that aims to address the complaint quickly with a fair outcome to both parties.

If we can't facilitate a settlement but we continue to believe the client should be compensated, we will complete our investigation and prepare an investigation report. We will send a draft investigation report to the firm and to the client for a brief comment period. Following the comment period, we will send the client and the firm a final report that sets out our recommendation.

Neither a court nor a regulator, OBSI does not fine or discipline firms or individuals. Our recommendations are not binding on either party, but we have an excellent record of acceptance of our recommended settlements from both firms and clients: over 99.8% of the thousands of complaints brought to OBSI since the organization's inception have been successfully resolved.

While we do not handle matters that have already been through a court or an arbitration, if a client is not satisfied with our conclusions, they are free to pursue their case through other processes including the legal system, subject to statutory limitation periods.

OUR COMMITMENT TO YOU

The Ombudsman for Banking Services and Investments is committed to excellence in our dispute resolution service. Our standards are designed to ensure a high-quality, independent and fair dispute resolution process for consumers and providers of financial services in Canada.

Our [Code of Practice](#) commits us to achieving high standards of excellence in 11 separate areas of our operation and governance including accessibility, fairness and independence, timeliness and competence. These standards were based in part on emerging international complaint-handling standards through the International Standards Organization (ISO 10003).

Unlike privately-contracted for-profit dispute resolution businesses, as part of our Framework for Collaboration with financial regulators OBSI must submit itself to rigorous, independent third party evaluations on a regular basis. Our [most recent review](#) was conducted in 2011 and found that OBSI was a world-class service in many respects.

PARTICIPATING FIRMS

All financial services firms active in banking services or investments that are regulated by the federal or provincial governments are eligible to become a participating firm of OBSI.

Current participating firms include:

- Domestic and foreign-owned banks
- Credit unions
- All Investment Industry Regulatory Organization of Canada (IIROC) member firms
- All Mutual Fund Dealers Association of Canada (MFDA) member firms
- Mutual fund companies
- Exempt market dealers
- Portfolio managers
- Scholarship plan dealers
- Forex trading services
- Federal trust and loan companies and other deposit-taking organizations



Our team of consumer assistance officers responds to thousands of initial inquiries and complaints

OUR PEOPLE

OBSI's experienced and professional staff are drawn from a variety of fields and disciplines such as law, accounting, finance, banking and investments. Our staff are committed to conscientious, fair and timely dispute resolution, which is evident in their dealings with all parties. All have extensive training and experience in financial sector dispute resolution.

At the end of our 2012 fiscal year, we had a complement of 48 permanent full- and part-time staff. Our team of consumer assistance officers responds to the thousands of initial inquiries and complaints that are received online and by phone, email, letter and fax each year. We have two teams of assessment staff and investigators responsible for reviewing and investigating files in depth – one for banking services and the other for investments.

The Senior Management Team consists of:

Douglas Melville

Ombudsman and Chief Executive Officer

Sasha Angus

Senior Deputy Ombudsman and Chief Operating Officer

Robert Paddick

Deputy Ombudsman, Investments

Tyler Fleming

Director, Stakeholder Relations and Communications

Marjolaine Mandeville

Manager, Administration

LANGUAGE SERVICES

OBSI's complaint intake centre is equipped to receive inquiries in over 170 languages. We use an international telephone-based service that allows us to connect a phone call we've received from someone who doesn't speak French or English to an interpreter, literally in seconds. The interpreter helps us understand the nature of the inquiry or complaint and makes sure the client can comprehend our instructions as well.

Our language service has been accessed by callers speaking Mandarin, Hebrew, Cantonese, Punjabi, Arabic, Russian, Tamil, and Italian, among others. While we can't offer to do a full case review or investigation in languages other than French or English, the interpreters help us explain to clients how OBSI works and point them to community resources where they can receive language assistance.

Consumers' Guide to How OBSI Works

You bring your complaint against one of our participating firms.

OBSI will evaluate complaints...

...if 90 days have passed since you first complained to your firm, or you are not satisfied with their final response to you.

Our mandate allows us to deal with your complaint and we will investigate.

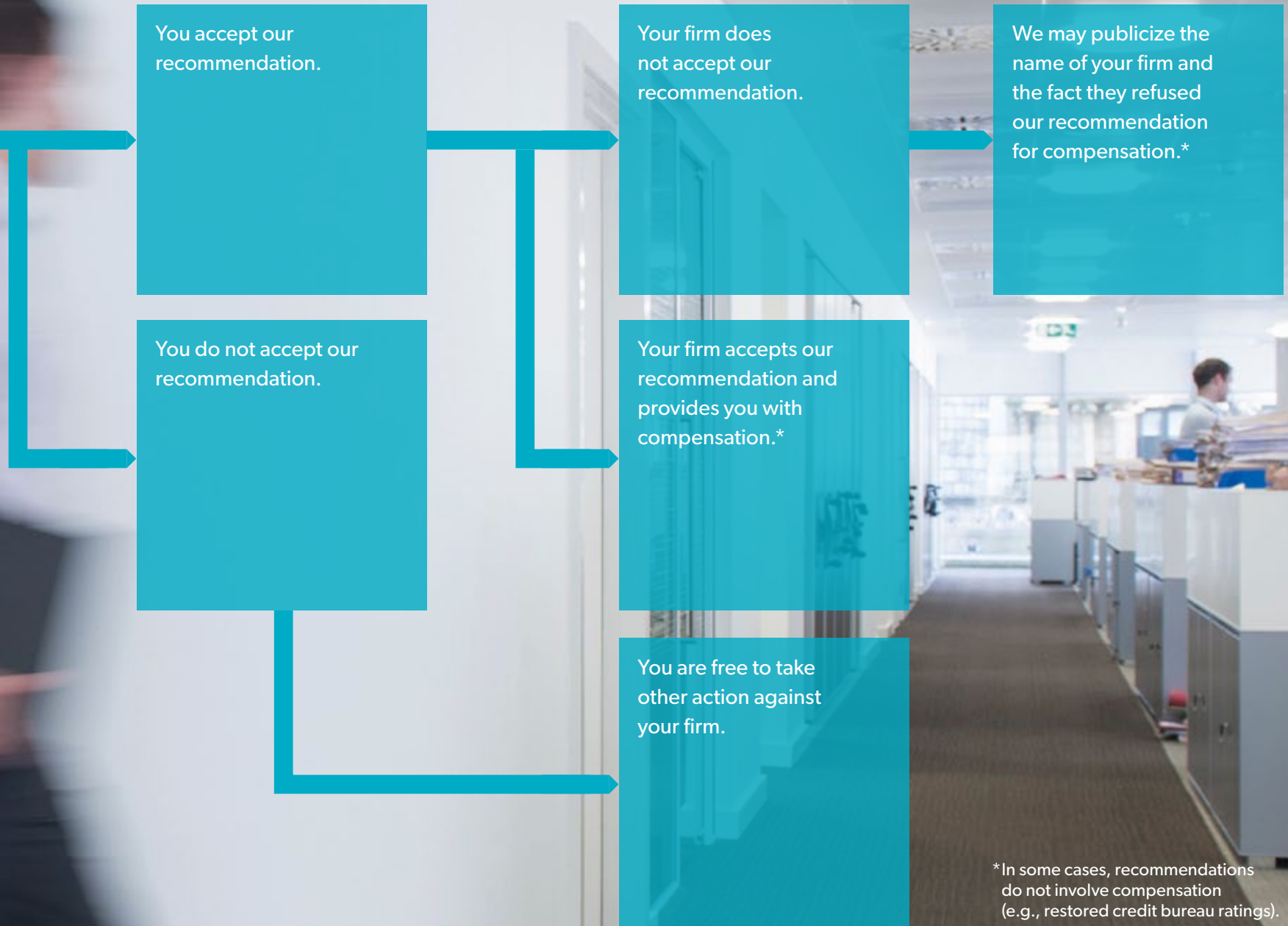
We agree your complaint has merit and make a recommendation for compensation* by your firm.

Our recommendations are not binding on either you or your firm.

If we think compensation is warranted, we try to facilitate a settlement for a fair amount.

Our mandate does not allow us to deal with your complaint and we'll help refer you to other possible options.

We determine that no compensation* by your firm is warranted.



*In some cases, recommendations do not involve compensation (e.g., restored credit bureau ratings).

What's New in 2012

In some instances, events described in this section took place right at the beginning of our 2013 fiscal year. We report on them now in the interests of timeliness and relevance.



Governance Reform

In response to [recommendations](#) made by OBSI's independent reviewer in late 2011, the Board of Directors created an ad hoc Governance Committee of the Board to oversee a transition to a new governance structure, develop new governance policies and processes as appropriate, and consult with stakeholders on these changes.

In May of 2012 OBSI's Board consulted on a draft framework for reforming OBSI's governance structure. The proposals were guided by the following principles: the protection of the independence of the Ombudsman in fact and perception; the involvement and commitment of individuals with knowledge and/or experience in consumer-related issues and the financial industry; and, the continued development and promotion of good governance.

In August, OBSI's Board published its response to stakeholder feedback along with its proposals for modifying the governance framework. It also consulted on a draft corporate Bylaw, reflecting the proposed governance framework as well as the requirements of the new *Canada Not-for-profit Corporations Act*.

After considering stakeholder comments and feedback, OBSI's voting members approved a new corporate Bylaw at the organization's Annual General Meeting in September. It will take effect when the corporation continues under the *Canada Not-for-profit Corporations Act*.

OBSI's Board of Directors will review and evaluate the effectiveness of OBSI's proposed governance structure within the next two years, including taking into account changes in the membership. Directors will consider opportunities for improvement and identify changes necessary to adapt to the changing environment.

The Board will also undertake a full evaluation of its own performance at a minimum once every two years. The evaluation will be conducted and reported to the Board by a third party, which will not be the same one conducting the tri-annual external review of OBSI's operations.

It really is a David versus Goliath thing. Most people don't understand money. They don't know who to call.

Member of the Public

BOARD RENEWAL

This past spring, the long-serving Chair of OBSI's Board of Directors, Dr. Peggy-Anne Brown, announced she would be retiring from the Board in September. Three other Directors would also step down from the Board after many years of distinguished service. To help fill the vacancies, OBSI engaged an executive search firm to conduct a comprehensive, national search for a new Chair and Directors.

Fernand Bélisle was appointed as OBSI's new Chair in September. Mr. Bélisle brings to OBSI a wealth of experience navigating complex multi-stakeholder, highly-regulated environments. He was trustee of the Canadian Association of Broadcasters (CAB) during their restructuring and is a consultant to several broadcast companies. Mr. Bélisle previously served as Vice Chair, Broadcasting, at the Canadian Radio-Television and Telecommunications Commission (CRTC), which followed a series of senior executive posts at the organization, including Secretary General. He is a current Director of Corus Entertainment, RNC Media, and Chair of Xittel Télécommunications. Mr. Bélisle has also served on a number of other boards and is active in the community.

Three new Directors were also appointed in September: Jim Emmerton, Executive Director of the British Columbia Law Institute, and Janis Riven, Adjunct Professor at the John Molson School of Business at Concordia University, through the process noted above. Kevin Regan, Executive Vice-President and Chief Financial Officer of IGM Financial Inc, was appointed from a shortlist of nominees provided by the MFDA.

All new Directors were selected on the basis of an enhanced competencies matrix developed as part of the consultation on a new governance framework.

INVESTMENT SUITABILITY AND LOSS ASSESSMENT CONSULTATION

In the majority of investment complaints we receive each year about advice-based accounts, investors complain that they received poor advice, their investments or investment strategies were unsuitable and/or that their investments did not perform as they expected. In such "suitability" complaints, investors ask to be compensated for the investment losses they incurred.

OBSI's approach is not designed to guarantee a certain return for investors. Rather, if we find an error, misleading advice or other maladministration that has caused a loss to a client, our process is designed

to make the client whole again. This requires a rigorous approach to determining investment suitability and compensable losses.

In 2011 OBSI issued for public comment a consultation paper detailing our investment suitability and loss assessment process. After considering the feedback received, in May 2012 we issued a second consultation paper detailing a series of proposed changes to our process. There were numerous steps along the way of what was a comprehensive process of consultation on OBSI's investment suitability and loss assessment process. OBSI published two consultation papers; participated in an industry working group; solicited opinions from experts in loss valuation and the law; held three information sessions, one for each of the public, IIROC members and MFDA members; and consulted regularly with securities regulators, industry participants, investor representatives, and OBSI's independent Consumer and Investor Advisory Council. Throughout this process we found the engagement by our stakeholders and partners to be immensely valuable. For that we extend our appreciation to all involved.

In early November 2012, after considering stakeholder feedback, OBSI published the Board

of Directors’ decisions in the matter. All documents and stakeholder submissions related to the consultation can be found on our website.

SELF-IMPOSED LIMITATION PERIOD

An Ombudsman’s role is to investigate complaints with a view to resolving them in a manner that is fair and reasonable in all the circumstances. Older evidence can sometimes present challenges in arriving at a fair and reasonable outcome, but because we are not a court proceeding, OBSI’s process has never been subject to statutory limitation periods.

While we have always considered the availability and reliability of evidence and the reasonability of investigating older complaints before we open a case for investigation, we thought it fair to formalize a time limit. As a result, OBSI has now established a self-imposed limitation period for new complaints of six years from the time when the complainant knew or reasonably ought to have known of a problem. Despite this, we note that OBSI will often need to open a file and begin an investigation before being able to determine that an individual took too long to complain.

THE HONOURABLE LINCOLN ALEXANDER

The Hon. Lincoln Alexander, Canada’s first black Member of Parliament and former Ontario lieutenant-governor, passed away in October. Alexander served as a Director of OBSI from 1997-2005, playing an integral role in the establishment and evolution of our organization. He remains the only individual to ever serve as Director Emeritus of OBSI. Alexander’s dedication to fairness and just treatment of individuals truly extended beyond his public service into all areas of his life. He will be greatly missed.



The Honourable Lincoln Alexander
 Photo courtesy of the Office of the
 Lieutenant-Governor of Ontario

BANKING DISPUTE RESOLUTION

In April, Canada's Minister of Finance announced that Ottawa intended to allow for-profit entities to compete for banks' complaint-handling business. This decision followed RBC and TD withdrawing from OBSI for banking complaints (they are required by securities regulators to remain participating firms of OBSI for investment complaints).

While not the decision that OBSI was hoping for, we appreciated receiving clarity as to the federal government's intent. In early July, further clarity was received when the Department of Finance announced its proposed Bank Act regulations governing complaint handling. Subsequent to the release of the draft regulations, the Financial Consumer Agency of Canada (FCAC) released its draft Application Guide for External Complaint Bodies for a concurrent public consultation.

OBSI already meets or exceeds all of the proposed regulatory requirements, which are fairly limited in scope. One new requirement is that OBSI must make a final written recommendation to the parties to a complaint no later than 120 days after the day on which we received the information that we required to deal with the complaint. Using this definition, in 2012 we took an average of 93.5 days to complete all banking case files and only 41 days for straightforward complaints. As we have previously noted, most of the holdups in

resolving a banking complaint do not originate with OBSI; delays in receiving documents from either the bank or the complainant, or in the parties considering a resolution proposed by OBSI, regularly adds weeks and months to the process. As the regulations were silent on expectations of cooperation from complainants or banks, we will be working with our participating banks to speed up the process by which we work with both banks and their customers to resolve complaints.

OBSI will also be enacting changes to our Terms of Reference to comply with requirements contained in the FCAC's application guide. A consultation on new Terms of Reference will take place before any changes are implemented.

CSA PROPOSES EXPANDED MANDATE FOR OBSI

The Canadian Securities Administrators (CSA), the body comprised of the heads of Canada's thirteen provincial and territorial securities commissions, published for a 90-day comment period [proposed amendments](#) to National Instrument 31-103 and to Companion Policy 31-103CP. The proposed amendments would require all registered dealers and advisers outside of Quebec to use OBSI as their provider of dispute resolution services.

Currently, all members of the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA) are required to participate in OBSI through the self-regulatory organizations' rules. In addition, many investment firms participate in OBSI on a voluntary basis, including all members of the RESP Dealers Association of Canada (RESPDAC). The CSA proposal would expand OBSI's membership to include all portfolio managers, exempt market dealers and scholarship plan dealers.

Over 600 firms already participate in OBSI on a voluntary basis, including many that belong to the new proposed categories.

In its [notice](#), the CSA explains the rationale for the proposed amendments. The CSA's goal in making this proposal is to ensure the independence of dispute resolution services and consistency in expectations and outcomes. The listed reasons for mandating OBSI as the common dispute resolution service include:

- No perception that competition for business from registered firms might influence the recommendations of for-profit dispute resolution service providers
- Complaints handled to a uniform standard
- Reduced investor confusion

OBSI is widely recognized as the most credible, impartial and truly independent dispute-resolution process in Canada for banks and their customers. By committing to OBSI, these banks have demonstrated the high importance they place on their customers' experience and satisfaction.

Fernand Bélisle, Chair

Consistent with OBSI's existing policy, complaints would be limited to those that are raised with the firm within six years of the date when the client knew or reasonably ought to have known there was a problem. The maximum compensation that OBSI would be able to recommend under NI 31-103 remains \$350,000.

We are gratified by the confidence in OBSI demonstrated by the CSA in proposing these amendments. As always, we will work closely with all of our stakeholders and regulatory partners to ensure OBSI continues to meet the high standards set for us.

BANKS COMMIT TO OBSI

As noted earlier, following the federal Finance Minister's April announcement, banks were free to leave OBSI in favour of a contracted supplier of dispute resolution services. Despite this regulatory

development, all of the banks that participated in OBSI's consumer dispute-resolution process for banking complaints in 2012 – including Scotiabank, BMO, CIBC, National Bank of Canada, HSBC Bank Canada, ING Bank of Canada, Laurentian Bank of Canada, American Express Canada and [others](#) – signed up to remain with OBSI for the full 2013 fiscal year. At the same time, several new member banks joined OBSI for the first time, including Merrill Lynch International Bank Limited and Mega International Commercial Bank (Canada). Sixty banks now voluntarily participate in OBSI, a new record.

OBSI has been Canada's trusted independent dispute resolution service for the banking sector since 1996 and we have a strong relationship with all of our participating banks.

At the time we announced the banks' commitment, Fernand Bélisle, Chair of OBSI's

Board of Directors, had this to say:

"OBSI is widely recognized as the most credible, impartial and truly independent dispute-resolution process in Canada for banks and their customers. By committing to OBSI, these banks have demonstrated the high importance they place on their customers' experience and satisfaction.

OBSI appreciates the continued support of so many of Canada's leading banks. Our commitment to them is to continue providing the top-quality complaint-handling services, trusted by the public, that the banks and their customers have come to expect."



STUCK CASES

In October 2011 OBSI received a letter from the CSA, IIROC and the MFDA. The letter concerned the resolution of a small number of complaints considered to be “stuck;” that is, those complaints where, following OBSI’s investigation, we reached a clear conclusion but the firm in question had not yet agreed to compensate the investor despite a significant amount of time having passed.

At the direction of the securities regulators OBSI established a one-time method of independent review of certain cases that were headed towards refusals to compensate. Firms were offered the opportunity to have former commissioners of the Ontario Securities Commission (OSC) – including the Hon. Patrick LeSage, former Chief Justice of the Ontario Superior Court – provide an independent assessment of the files in question based on the fairness standards in OBSI’s Terms of Reference.

The purpose was to ensure that OBSI had fairly considered the facts of the case and that investigation findings and recommendations were objectively reasonable.

This one-time process was offered only in the twenty-one cases identified as “stuck” as of the date of the letter from the CSA, IIROC and MFDA (October 28, 2011). As of the end of our 2012 fiscal

year several of those cases had been resolved. Among the remaining cases that did not resolve, only one firm chose to take up the independent review offer. In that instance, the reviewer fully supported OBSI’s analysis and conclusions and the firm subsequently agreed to pay the full amount recommended by OBSI: \$228,977.

This independent review process offered many benefits to the parties. It allowed firms that objected to OBSI’s conclusions to test the validity of their concerns. For the complainants, it held out the possibility of convincing firms to pay them the compensation OBSI believed they were owed where otherwise the recommendation would be refused and they would receive none. Finally, if our findings were upheld by the reviewers, it would build external stakeholder confidence in OBSI’s decision-making. Conversely, if we had made any errors, finding this out would help us direct our training and process improvement to better handle case files in the future.

We regret that more firms did not take advantage of this process. In November 2012, OBSI proceeded to announce several firm refusals to compensate their customers, as required by Section 27 of our Terms of Reference (please see *Compensation Refusals* section). None of these firms had chosen to engage in the review process.

EXTRAORDINARY EFFORTS TO RESOLVE CASES

If a firm refuses OBSI's recommendation to compensate a customer, OBSI must publicize the refusal as well as our investigation's findings under Section 27 of our Terms of Reference. This provision was established by industry and regulators at the time of our office's creation. The ability to make public a refusal is the principal tool that OBSI has to incent firm cooperation, but it was never meant to actually be used. Instead, it was meant to serve as a deterrent to ensure that the non-binding nature of OBSI's recommendations would be effective. Until recently, only one firm back in 2007 had ever refused an OBSI recommendation to compensate a complainant.

If OBSI announces a refusal to compensate it is the end of our process. It means that someone, a client of an investment firm or bank, will not receive the compensation OBSI believes they are fairly owed based on the facts of the case.

Recognizing this, we took some extraordinary steps in an effort to resolve the long-standing complaints where firms were resisting our conclusions. Our only interest was in finding fair resolutions to these complaints.

These extraordinary steps included:

Consultation on OBSI's methodology:

OBSI undertook a comprehensive consultation on our investment suitability and loss assessment methodology. While firms may agree with all or part of OBSI's process, when there is not agreement it can lead to significant delays in resolving client complaints. This was an issue in the overwhelming majority of the stuck cases. While these consultations were ongoing, we felt it would be unfair to the firms if we published their refusals.

Expert assessment:

As required by financial market regulators, OBSI must submit itself to knowledgeable, independent third party evaluations on a regular basis. The Navigator Company of Australia, with extensive international experience in this field, reviewed OBSI in 2011. Industry participants met with the reviewer to outline

their concerns with OBSI. The reviewer specifically asked firms that voiced concerns about OBSI to submit actual complaint files, including OBSI correspondence and findings, for review in order to validate their concerns. Only a few firms took up this offer. The reviewer also looked at dozens of files chosen randomly from OBSI's case inventory. The case file review found that OBSI's methods and conclusions were fair, rigorous, appropriate and consistent across files.

Independent review process:

As noted earlier, at the direction of the securities regulators OBSI established a one-time method of independent review of certain cases that were headed towards refusals to compensate. Firms were offered the opportunity to have former commissioners of the Ontario Securities Commission (OSC) provide an independent assessment of the files in question based on the fairness standards in OBSI's

Terms of Reference. If OBSI had unfairly considered the facts of the case or our investigation findings were objectively flawed, the reviewer would say so in their report on the matter. Only one firm took up this offer.

Escalation within the firm:

We recognize that sometimes senior management at a firm is unaware of the complaints about their firm that are in OBSI's office and at an impasse, even when large dollar amounts are involved. On occasion, it is not until we have been about to go public with a refusal to compensate that the firm changed its mind. It is OBSI's goal to allow firms plenty of time to resolve cases at the appropriate level before we announce a refusal, and developed a comprehensive escalation process to facilitate this. This escalation process is available on our website.

I like you as a person and enjoyed our meetings and discussions during the past years, and as much as I would like to stay with you as my financial advisor, I will not follow you. My investments are small and thus, I am no great loss [but] it is indeed unfortunate when the advice and recommendations of the Ombudsman is [sic] not respected by the parties. You might wish to advise senior management at your organization that I would have gladly invested with [your firm] had it not been for the OBSI report.

Client who would not follow their advisor to a firm that refused an OBSI compensation recommendation. OBSI was cc'd on this email.

COMPENSATION REFUSALS

Since OBSI's inception, the overwhelming majority of complaints brought to our organization have been successfully resolved. Those complaints that end in refusals by firms to compensate their customers have historically been very rare: over 99.8% of the thousands of complaints brought to OBSI since the organization's inception have been successfully resolved.

In many cases, OBSI's earlier-noted efforts succeeded in resolving stuck cases. Although the complaints dragged on, in the end some firms agreed to settlements and their customers were satisfied that their complaints were resolved fairly.

In other cases, however, firms simply did not agree to compensate their customers. Having exhausted all avenues to settle these complaints, OBSI was then required to publicize the refusals.

Octagon Capital Corporation ('Octagon') refused to compensate one of its customers in the amount of \$181,339 as recommended by OBSI. A complaint was brought to OBSI concerning the investor, Mrs. B., who was an elderly and widowed client of Octagon. She was primarily

a low-risk investor and needed income from her investments to last her lifetime. Mrs. B's advisor at Octagon traded frequently in her accounts, and often without her authorization. The securities he purchased were too risky for her, as were the margin and short selling strategies he used. Mrs. B's accounts were unsuitably invested overall. She was an unsophisticated investor who did not know her investments were unsuitable.

W.H. Stuart & Associates ('W.H. Stuart') refused to compensate customers in the amount of \$41,066 as recommended by OBSI. A retired elderly couple, Mr. and Mrs. I, brought their complaint to OBSI after unsuccessfully trying to resolve their complaint with W.H. Stuart directly. Mr. and Mrs. I were low to medium-risk investors with limited investment knowledge, limited income and net worth, and no investment experience in individual stocks or private shares. On the recommendation of their W.H. Stuart advisor the complainants purchased shares in an extremely small private company that later went bankrupt. The investment was portrayed as a guaranteed, risk-free investment that was in fact a high-risk, speculative investment unsuitable for them

given their personal and financial circumstances.

Macquarie Private Wealth, formerly known as Blackmont Capital Corporation, refused to compensate several retail investors in the amounts of \$74,791 and \$157,274 as recommended by OBSI. At the time of their complaint, Mr. and Ms. S were a married couple from Ottawa with three teenage children getting ready to attend university in the coming years (Mr. S has since passed away). The other complainant, Ms. M, was in her seventies, retired and living outside of Halifax. Their advisors placed some or all of their portfolios in investments that were unsuitable given their personal and financial circumstances, investment objectives and/or risk tolerance.

All [investigation reports](#) regarding these complaints are available on OBSI's website.

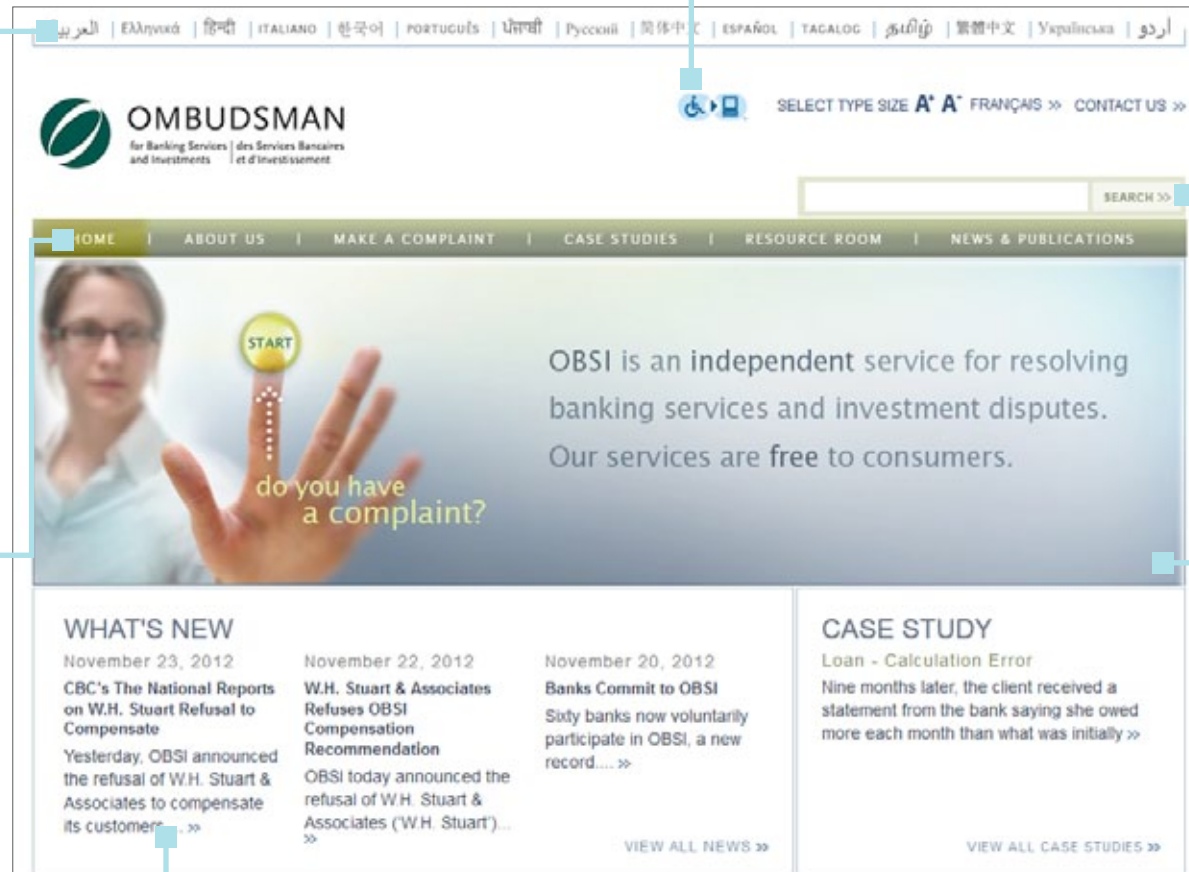
REFRESHED WEBSITE

In August, OBSI went live with a refreshed website. We improved the navigation, added several important accessibility features, and updated the look and feel. To the right are some of the key changes we made.

Accessibility features: We've added several important new accessibility features. Website visitors now have the ability to customize the font size of the text and we took other measures to improve the legibility of our content. We've also partnered with *essentialAccessibility* to introduce an innovative browsing tool that lets visitors with physical limitations access our website content.

Languages bar: We've added links to informational text in fourteen languages to assist those who can't speak English or French or whose mother tongue isn't one of Canada's official languages. Before, we had provided some of this information, in fewer languages, but it was in a different section of the website. If you couldn't understand English or French, you probably couldn't find it.

Improved navigation: As OBSI has grown over the years, more and more information has been added to the website. Before, this content didn't always have a logical place to go, making it hard to find. We've reorganized the pages and navigation bar to make finding the information a more intuitive experience.



Better search: Visitors are now able to better search for what they're looking for when they need it.

New colours: The bold orange and dark blue of the old website were replaced with the warmer, softer greens and blues you see now.

Relevant content: The lower portion of the homepage was reconfigured to improve its usefulness to visitors. Our three most-recent updates are now included in "What's New"; previously, only one item was displayed. The case study that appears now rotates randomly among all of our published case studies each time a visitor comes to OBSI.ca.

CONSUMER AND INVESTOR ADVISORY COUNCIL

OBSI's Consumer and Investor Advisory Council was created to provide the input of consumers and investors into OBSI's governance and operations, to complement the input OBSI regularly receives from industry stakeholders and regulatory and government officials.

In July 2012 Julia Dublin became the new Chair of the Council. Dublin succeeded Laura Watts, who continues as a member of the Council.

Throughout 2012, the Council was active and engaged in fulfilling its mandate. Its activities included: meeting with and making submissions to OBSI's Board of Directors; providing input directly to OBSI management; liaising with other consumer and investor representatives; and, making public statements on issues of concern.

Several members stepped down from the Council in 2012. OBSI would like to thank them for their significant dedication and effort over the past two years.

The membership of the Council was as follows:

Julia Dublin, Chair

Corporate and securities lawyer in private practice

as well as Adjunct Professor at Osgoode Hall Law School teaching advanced securities law. Worked with the federal Department of Justice for four years, and subsequently with the Ontario Securities Commission (OSC) for 18 years. Seconded from the OSC to the federal Department of Finance in 1992-93 as special adviser on securities regulatory issues connected with financial institutions.

Jim Emmerton*

Since 2007 Mr. Emmerton has been the Executive Director of the British Columbia Law Institute (BCLI) and Canadian Centre for Elder Law. Served in various legal and senior executive capacities with John Labatt and Methanex Corp. and possesses a broad spectrum of knowledge in the fields of law, finance and corporate development. In 2011, he was the winner of the Western Canada ZSA/National Post Lifetime General Counsel award.

Robert Goldin*

Investment Dispute Consultant with MacGold Direct and leading investor advocate. Over forty years' experience in the financial service industry as a lawyer, financial consultant, forensic financial auditor and investment dispute consultant.

John Lawford

Executive Director and General Counsel to the Public Interest Advocacy Centre (PIAC). Expert in the areas of e-commerce, privacy, financial services and health law from a consumer perspective.

Ermanno Pascutto

Founder and Executive Director of the Canadian Foundation for the Advancement of Investor Rights (FAIR Canada). Executive Director and head of staff of the Ontario Securities Commission 1984-89. Vice-Chairman of the Hong Kong Securities and Futures Commission 1989-94. Independent director of Market Regulation Services 2004-2008. Over 30 years' experience as a senior regulator and practicing Canadian and Hong Kong securities lawyer.

James R. Savary

Associate Professor of Economics Emeritus at York University in Toronto, specializing in financial institutions and markets and in monetary theory and policy. He is a member of the Board of Directors of the Travel Industry Council of Ontario, and a member and Past-Chair of the Board of Directors of the Canadian Automobile Arbitration Plan. He is also an active participant in the work of the Canadian Standards Association and the Standards Council of Canada.

Laura Small

Past-President of the Canadian Council for Small Business and Entrepreneurship. CEO of Women Entrepreneurs of Saskatchewan Inc. Served in various capacities with the Saskatchewan Attorney General’s office and Western Economic Diversification Canada.

Glorianne Stromberg*

Securities lawyer, now retired. Former Commissioner of the Ontario Securities Commission. Author of three reports on regulatory strategies relating to the provision of financial services. Frequent speaker and commentator on matters relating to the investment funds industry, the financial services sector, and the protection of investors.

Nidhi Tandon

Founder and Director of Networked Intelligence for Development. Designs and runs grassroots training workshops for women’s organizations, small business and farmer communities globally. President of Ontario Nature and board director with Oxfam Canada.

Laura Watts

Lawyer and Principal with Elder Concepts, a consultancy specializing in working with organizations, governments and industry on issues relating to aging, elder abuse prevention and consumer rights. Past-Chair of the Canadian Bar Association National Elder Law Section. Senior Fellow of the Canadian Centre for Elder Law and immediate past National Director and staff lawyer at the BC Law Institute from 2004-2011. Adjunct and sessional professor at a number of universities including the University of Toronto and the University of Victoria. Awarded the Stetson University Distinguished Fellowship in Elder Law 2012.

* Stepped down from the Council in 2012.

Members of the Council participate in their individual capacities and do not represent organizations with which they may be affiliated.

CANADA-WIDE COMMITMENT TO PERSONS WITH DISABILITIES

OBSI is committed to excellence in dispute resolution. As part of that commitment, we strive to provide our services in a way that promotes universal access to our service and respects the dignity and

independence of persons with disabilities.

OBSI has long made the accessibility of our service paramount: for instance, our offices are wheelchair-accessible, our clients can contact us via TTY, and we utilize accessible graphic design in our public-facing materials.

The provincial Accessibility for Ontarians with Disabilities Act (“AODA”) aims to achieve a better Ontario for persons with disabilities by improving the identification, removal and prevention of barriers to access. OBSI’s commitment to Canadians is that we will apply the standard required by AODA not just in Ontario but across all of Canada.

While the legislation has applied to the public sector since 2010, non-governmental organizations such as OBSI are required to comply with staggered implementation dates that began in 2012.

OBSI has been compliant with the Customer Service Standard since January 1, 2012. The Standard requires us to develop policies and practices relating to the delivery of goods and services to persons with disabilities, complemented by appropriate training. We have also implemented sections of the Integrated Standard related to emergency response procedures. Our [Accessible Customer Service Plan](#) is available on our website and provides more detail about our commitment.

SUPPORT FOR OBSI

Apart from clients, participating firms and industry associations, there are many others who take an interest in the work that OBSI does every day. In every case we are either telling a firm or an individual that we disagree with their views. Over the course of recent public policy debates, OBSI has been gratified by the numerous stakeholder groups advocating in favour of financial sector dispute resolution that has integrity, coherence, and impartiality at its core. We would like to acknowledge and thank those who have added their voices of support for the work we do, including:

- Canadian Advocacy Council for Canadian CFA Institute Societies (CAC)
- Canadian Community Reinvestment Coalition
- Canadian Foundation for the Advancement of Investor Rights (FAIR)
- CARP
- Consumers Council of Canada (CCC)
- Investor Advisory Panel (IAP) of the Ontario Securities Commission (OSC)
- Kenmar Associates
- Mouvement d'éducation et de défense des actionnaires (MÉDAC)
- Option consommateurs (OC)
- Public Interest Advocacy Centre (PIAC)
- Small Investor Protection Association (SIPA)
- Union des consommateurs

Many individuals have also spoken up in support of OBSI, either publicly or behind the scenes, and we extend our appreciation to them as well.

DEVELOPMENTS FROM AROUND THE WORLD

Canada and OBSI do not exist in isolation. There were several important developments affecting financial ombudsman schemes in other jurisdictions this year, many of which have been of interest to policymakers and regulators here in our country.

New Ombudsman Offices

New financial ombudsman offices were introduced in locales as varied as the United States, Hungary, the Serb Republic of Bosnia, Swaziland, Saudi Arabia, and Taiwan, while several more were proposed including ones in Russia, Zimbabwe, and Azerbaijan. These new Financial Ombudsman schemes continue to add momentum to the powerful concept of effective, independent, and unitary alternative dispute resolution in the financial sector.

United States

The Consumer Financial Protection Bureau (CFPB) opened its Ombudsman's Office last December to assist in the resolution of individual and systemic issues. It has since expanded to include individual complaints about credit bureaus.

Ireland

Banks and insurance companies that breach consumer rights could be "named and shamed" by the Financial Services Ombudsman for the first time. The Irish Government accepted a Bill that would allow a record of complaints to be made public including the details of the number and types of complaints against a bank or insurance company. The name and shame will be at the discretion of the Ombudsman.

New Zealand

The Insurance and Savings Ombudsman (ISO) adopted a new Constitution and Terms of Reference, due largely to the expansion of its mandate brought on by legislative changes in 2011. Following a consultation process with stakeholders, the governing documents were developed with the assistance of the Navigator Company, the same company that conducted OBSI's external reviews in 2007 and 2011.

The Banking Ombudsman Scheme also celebrated 20 years since its founding. In that time, it has answered tens of thousands of calls, letters, and electronic communications from banking customers. It has helped resolve about 20,000 cases and remains committed to lifting industry standards. It notes that its efforts have led to banks improving their systems, greater information disclosure, better service and compensation for affected parties.

United Kingdom

The Financial Ombudsman Service (FOS) noted it has seen an increasing number of “cautious savers” being lured into gambling half-a-billion pounds every month on risky and complicated stock market investments promising annual returns of up to 10.5%. More than £1.3billion was poured into complex investments during the first two months of 2012. They are increasingly being sold to savers who need income and who are frustrated by the low interest rates offered on regular High Street accounts.

FOS is also receiving a huge number of complaints – over 400 per hour – alleging mis-selling of payment protection insurance (PPI) by banks. PPI complaints were over 50% higher than forecast (which had already projected a massive increase), and FOS expects complaints to double again in 2013. As a result, the FOS budget will grow from £191 million in 2012 to £280 million.

India

The Reserve Bank of India (RBI) has constituted an internal working group to review, update and revise the Banking Ombudsman Scheme (BOS), which was last reviewed comprehensively in 2006. Among other things, the working group will be looking into whether the mandate should include harassment or poor customer service, whether the geographical reach of the BOS should be

expanded by opening new physical offices around the country, and whether banks’ own internal Ombudsman procedures should be strengthened.

Trinidad & Tobago

The Central Bank Governor has been considering expanding the Financial Services Ombudsman (FSO) mandate to include credit unions, pension schemes and mutual funds. For now, the FSO is empowered to investigate specific types of complaints involving deposit and loan accounts, investment services, trusts, and mutual funds in the banking sector. Its jurisdiction in the insurance sector covers life policies, individual annuity products, fire and general insurance, and third-party property damage claims under automobile insurance policies.

G20

As we have previously reported, in 2011 the finance ministers and central bank governors of the G20 countries endorsed the [framework for financial consumer protection](#) developed by the Organization for Economic Co-operation and Development (OECD) and the Financial Stability Board (FSB).

At a 2012 meeting of the same group in Mexico City, the G20 affirmed its commitment to the framework and announced [the next step](#) in furthering this initiative:

...advancing the financial consumer protection agenda by developing effective approaches to support implementation of the High Level Principles endorsed in Cannes.

The original principle concerning financial complaints handling and redress reads as follows:

Jurisdictions should ensure that consumers have access to adequate complaints handling and redress mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient. Such mechanisms should not impose unreasonable cost, delays or burdens on consumers. In accordance with the above, financial services providers and authorised agents should have in place mechanisms for complaint handling and redress. Recourse to an independent redress process should be available to address complaints that are not efficiently resolved via the financial services providers and authorised agents internal dispute resolution mechanisms. At a minimum, aggregate information with respect to complaints and their resolutions should be made public.

Media Coverage

Year in Review



The future of Canada's national bank ombudsman

Business News Network,
March 28, 2012



Fund firm named and shamed

CBC, The National,
November 22, 2012

The effort to undermine the one cost-effective option that aggrieved consumers have in disputes in which they often are dreadfully overmatched, in terms of legal and financial resources, is terrible optics for the industry.

Investment Executive,
November 15, 2011

[The Canadian Foundation for the Advancement of Investor Rights (FAIR Canada)] says OBSI "is necessary in order to avoid fragmentation, inconsistencies, serious potential conflicts of interest, complainant (client) confusion," even though "it is a system in which member firms hold a great deal of power, expertise and knowledge."

Financial Post,
November 21, 2011

On a benefit-cost basis, [complaints about it are] puzzling... OBSI isn't expensive.

Financial Post,
November 26, 2011

Finance Minister Jim Flaherty told the Financial Post that Ottawa will not make OBSI mandatory for the federally chartered banks.

Financial Post,
April 30, 2012

[Ombudsman Melville] will sit down with his board of directors to discuss OBSI's future... given Mr. Flaherty's recent announcement. The focus will be on how to operate in this new multiparty system, rather than continuing to fight with a few banks.... Much will be determined by what standards the government sets for other ombudsmen who want to compete with OBSI. "The story has yet to be written in this new environment," he says.

The Globe and Mail,
June 1, 2012

OBSI spokesman Tyler Fleming said he's confident the independent service for resolving banking and investment disputes will meet the new criteria. OBSI will continue to work with the [dozens of] participating banks that still use it for resolving banking complaints, and it remains business as usual.

Wall Street Journal,
July 6, 2012

"Rather than using the framework of a not-for-profit, public interest ombudsman, who traditionally balances power and supports substantive access to justice for individual citizens, the proposed regime appears to embrace a narrower, private company, fee-for-service, alternative dispute resolution model instead, with the banks and not the consumer as clients."

[said OBSI's consumer council chair Laura Watts.]

The Bottom Line,
September 21, 2012

In his keynote address to the Ontario Securities Commission's (OSC) annual conference Tuesday, OSC Chairman Howard Wetston announced that next month the Canadian Securities Administrators (CSA) will be proposing to require that all firms, including exempt market dealers, scholarship plan dealers, and portfolio managers, must use the services of the Ombudsman for Banking Services and Investments (OBSI) to resolve client complaints.

Investment Executive,
October 30, 2012

Year in Review

An aerial photograph of a complex highway interchange with multiple lanes and curved ramps. The roads are surrounded by lush green trees and grass. A semi-transparent green rectangular box is overlaid on the left side of the image, containing the text 'Year in Review' in a white, sans-serif font.

Banking Services

OBSI’s banking services complaints come from domestic and foreign-owned banks, trust companies and credit unions. In the fluid world of financial services, we see investment product issues arise in banking files as “wealth management” spills across the former silos of banking, investment and insurance.

SASHA ANGUS, SENIOR DEPUTY OMBUDSMAN AND CHIEF OPERATING OFFICER:

In 2012, OBSI opened 210 banking complaints, which was approximately the level of complaints in 2007. Of course, since then both RBC and TD have withdrawn from OBSI, and they were among the largest sources of complaints. Even factoring out RBC and TD’s numbers, however, we seem to be seeing the working through of the greater number of complaints arising from the 2008 financial crisis and a return to more historically normal levels of customer complaints.

The largest number of complaints,

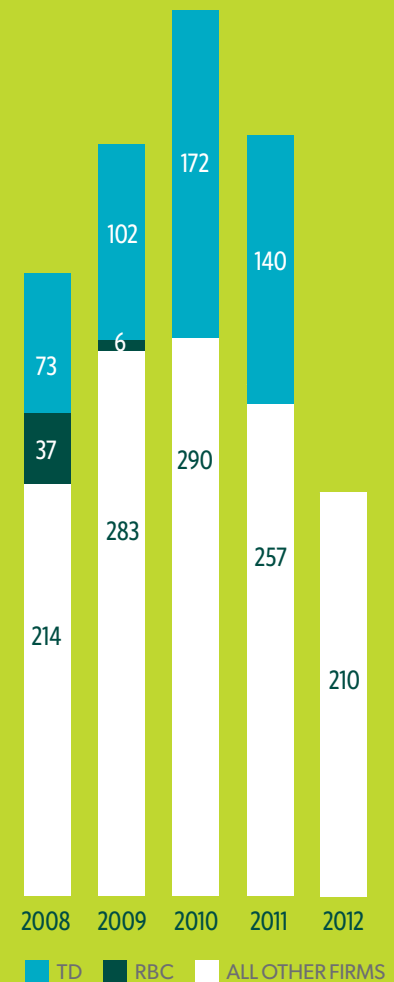
about a quarter of our total, continues to relate to mortgage prepayment penalties. As was the case last year, customers are still being charged amounts that they do not expect when prepaying a mortgage. The prepayment “penalty” can be, for example, the higher of three months’ interest and the calculation of the interest rate differential. The difference between those two numbers can be as much as tens of thousands of dollars, making the issue important for both the bank and the customer. While customers

should always read and understand the documents they sign, they are also entitled to rely upon representations made by banking representatives. Because of that, complaints of this nature often turn on weighing representations customers say were made to them in light of the contract between the customers and the bank.

The next largest series of cases arise from debit and credit card fraud, constituting just under a quarter of our cases. In fraud cases, both the client and the bank may be victims. Trying

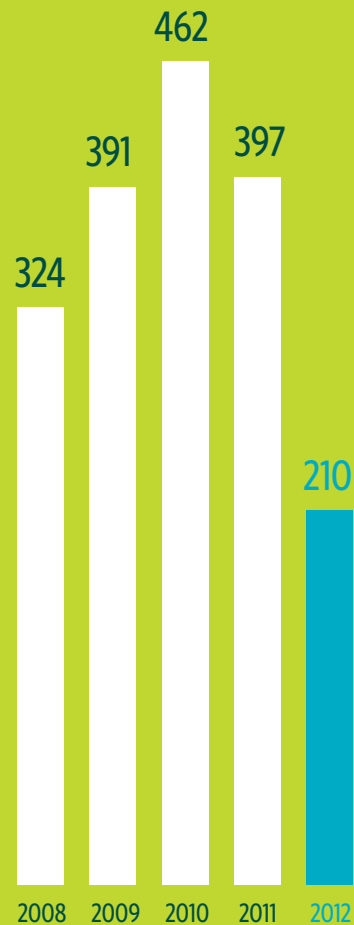
210

Banking Cases
in 2012



210

Banking Cases in 2012



to decide whether the client should recover money from the bank is usually a matter of weighing the evidence, reviewing the applicable documentation, and determining whether the client should be held partially or fully responsible for the loss that occurred.

From a customer perspective, understanding the nature and detail of the documents they are asked to sign to create an account, obtain a credit card, or seek a loan is crucial to their future financial well-being. The documents set out the relationship between the bank and the customer. Care at the outset by both the bank and the customer in creating an effective working relationship can pay off in the future.

We have also seen an increase in customer disputes about their credit rating. Failure to pay debts on time can have a long-lasting effect on a person's credit-rating, particularly when you later seek to borrow money.

Powers of Attorney (POAs) continue to cause concern. Where an attorney has been granted power over a person's financial affairs, we have seen instances where the attorney has been added to the customer's accounts as an account holder, which was not the intention of the grantor. Revoking later on this same power of attorney may not be effective by itself to remove the attorney from the account. Rights of survivorship can mean that the attorney

ends up owning the property by mistake. These issues arise particularly with respect to the elderly, who may be relying on family members to care for and protect them in these circumstances.

In some cases, banks have had an account holder sign the bank's own form of POA in circumstances where the customer had already signed a power of attorney before a lawyer or notary. Should the two powers conflict, there will be problems of interpretation or validity, leading to claims that can be very difficult to resolve. As in other matters, clear and full communication between the bank and the customer can go a long way to preventing such issues from arising.

Investments

OBSI’s participating firms involved in investments mostly belong to two major groups. Investment dealers are regulated by the Investment Industry Regulatory Organization of Canada (IIROC). Client accounts may include stocks, bonds, mutual funds and other investment products. Mutual fund dealers are regulated by the Mutual Fund Dealers Association of Canada (MFDA) and are limited to dealing in mutual funds and, if properly registered, exempt products sold without a prospectus. We also review complaints from customers of participating scholarship plan dealers, portfolio managers and exempt market dealers.

ROBERT PADDICK, DEPUTY OMBUDSMAN FOR INVESTMENTS:

After complaint volumes subsided somewhat with the market’s recovery from the global economic and market meltdown of 2008-09, we are once again seeing an uptick in complaints. The number of opened investment complaint investigations jumped by more than 10% in 2012, making it another busy year.

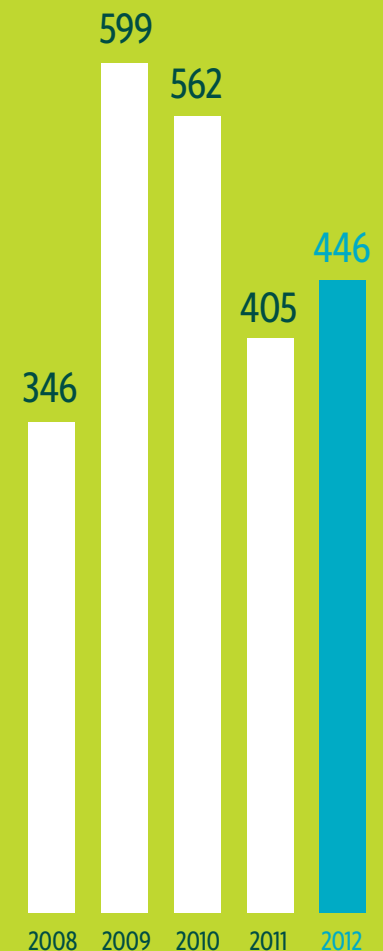
As in years past, the number one

issue that we investigate continues to be unsuitable investments and investment advice. We are pleased to have completed the public consultation on our investment suitability and loss assessment process. The consultation culminated in our Board approving a number of improvements to our process which we believe will result in higher-quality

outcomes and more consistent and efficient resolutions of unsuitable investment complaints. In particular, the change to using, in most cases, common indices as suitable investment benchmarks will bring predictability to our process while still allowing us the flexibility to use other benchmarks if the particular facts and circumstances of a case call for it.

446

Investment Cases
in 2012



This past year, we investigated a number of off-book complaints. In these cases, investment advisors make recommendations, conduct trading or have other financial dealings directly with their clients outside or “off the books” of their dealer, without their dealer’s knowledge or authorization.

Last year in this space we mentioned that we were seeing an increase in the number of unsuitable investment complaints involving leveraged exchange traded funds (ETFs). That trend continued this year with leveraged ETFs being a predominant product in the complaints under investigation. In some cases we are finding that investment advisors are not aware of the risks and characteristics of the investments they are recommending. In the case of leveraged ETFs this is resulting in some investment advisors not trading the products appropriately and making unsuitable investment recommendations to their clients.

This past year, we investigated a number of off-book complaints. In these cases, investment advisors make recommendations, conduct trading or have other financial dealings directly with their clients outside or “off the books” of their dealer, without their dealer’s knowledge or authorization. This type of activity is strictly prohibited by securities regulators. While this type of activity is often hard for dealers to detect, it is important that dealers remain diligent in looking for and following up on any red flags that indicate an advisor is engaged in this type of activity. It can be equally difficult for clients to detect when an advisor is acting without the knowledge of their dealer, but clients too must remain diligent to identify red flags and ask questions when their advisor’s activity seems out of the ordinary.

Client Feedback

As a neutral third-party that stands between individual aggrieved clients and their financial services firms, it has been OBSI's experience that satisfaction with our service is fairly predictable. If our investigation finds that the firm acted reasonably and that the client is not owed compensation, the firm is happy with us and the client is not. Similarly, if we recommend in favour of compensation, the client is happy with us and the firm is not.

As we have previously observed, the data shows a strong correlation between the outcome of clients' complaints and their level of satisfaction with OBSI's service. What is heartening to us is that many people who did not receive compensation in the end still expressed positive opinions about our service.

While it's impossible for us to please everyone all of the time, obtaining data on service perceptions helps us identify areas for improvement or special attention.

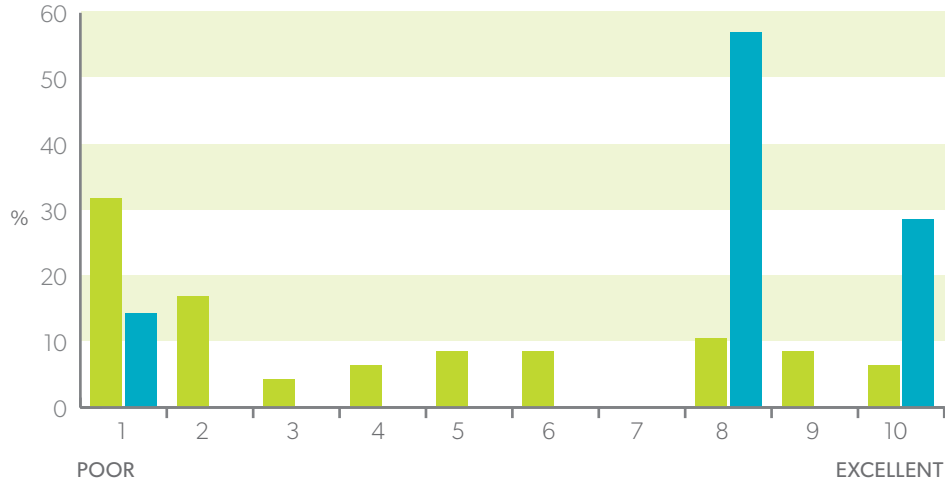
Of all the banking folks I have dealt with I feel you have been the most understanding and logical about handling my complaint.

OBSI complainant

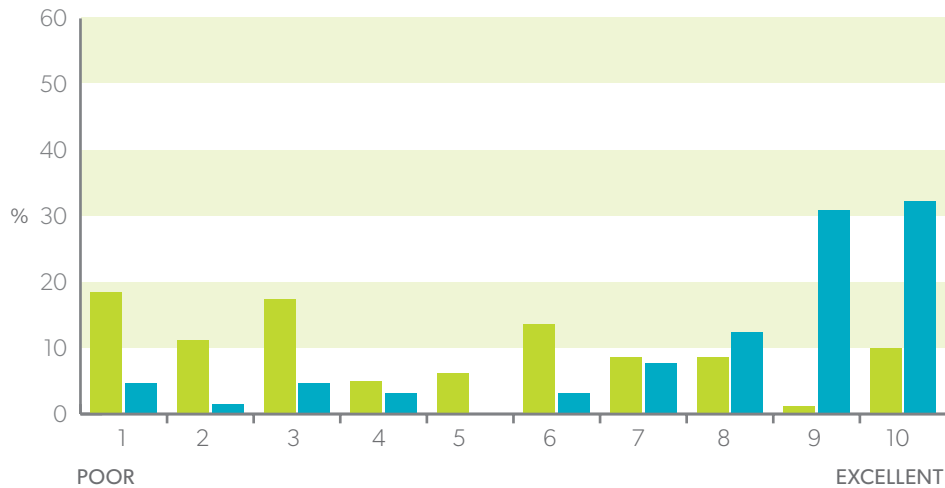
■ NO COMPENSATION ■ COMPENSATION

QUALITY OF SERVICE

BANKING COMPLAINTS

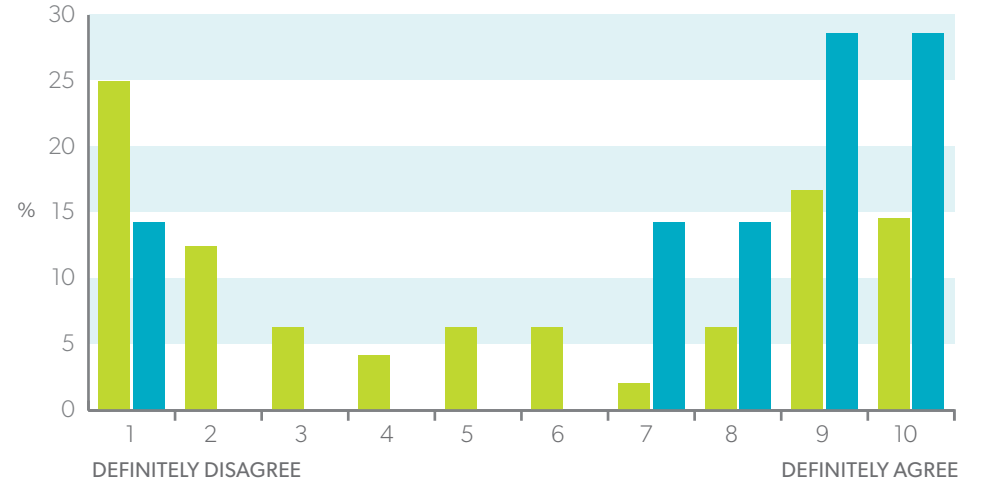


INVESTMENT COMPLAINTS

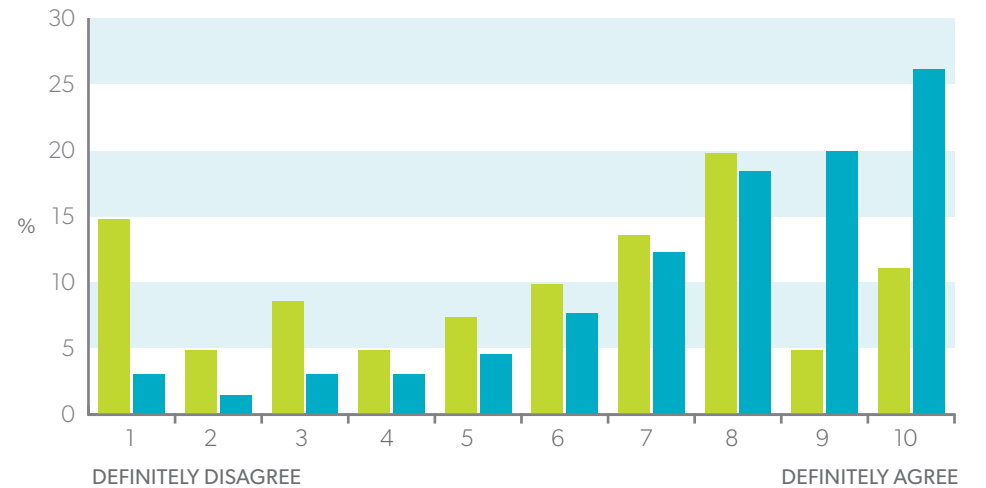


PROCESS WAS EASY TO UNDERSTAND AND FOLLOW

BANKING COMPLAINTS



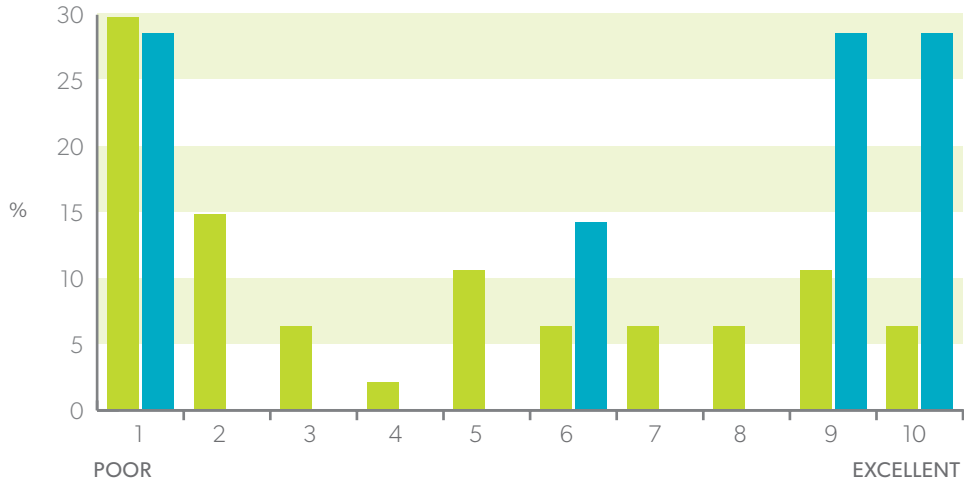
INVESTMENT COMPLAINTS



■ NO COMPENSATION ■ COMPENSATION

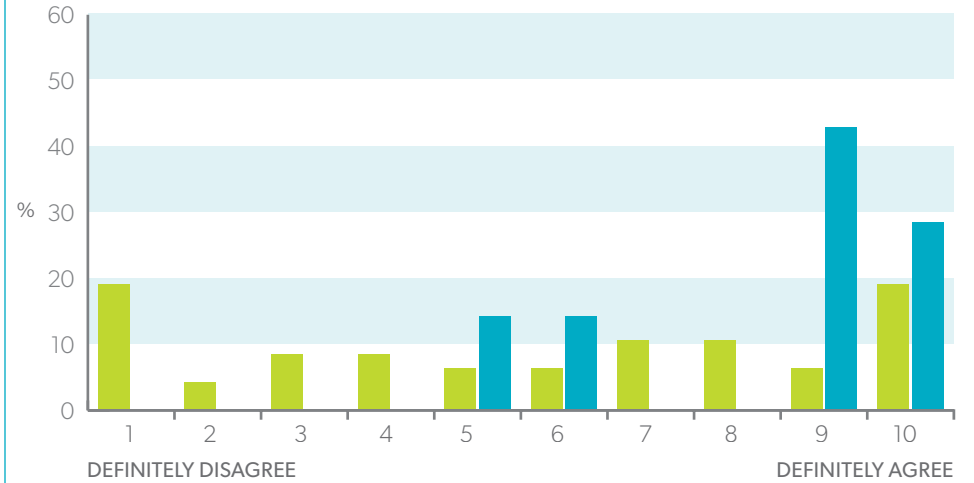
INVESTIGATION OCCURRED WITHIN A REASONABLE LENGTH OF TIME

BANKING COMPLAINTS

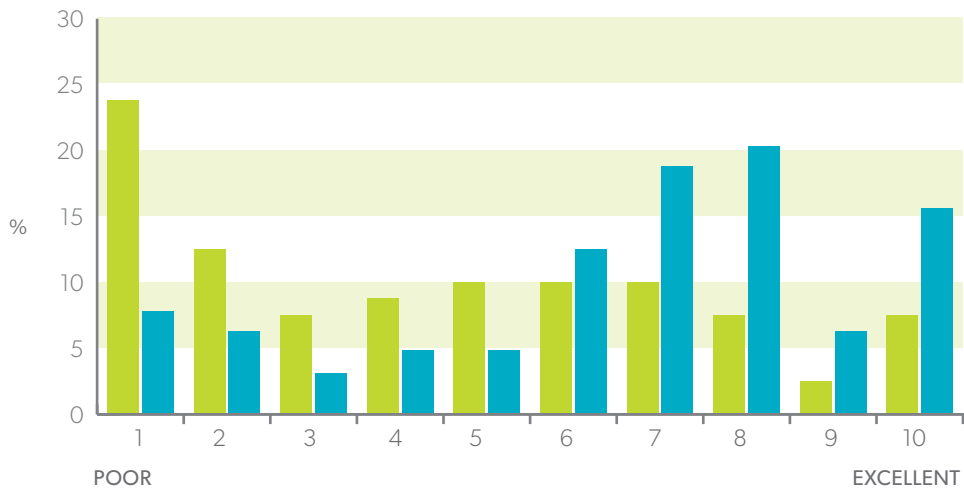


INVESTIGATOR WAS COURTEOUS AND PROFESSIONAL

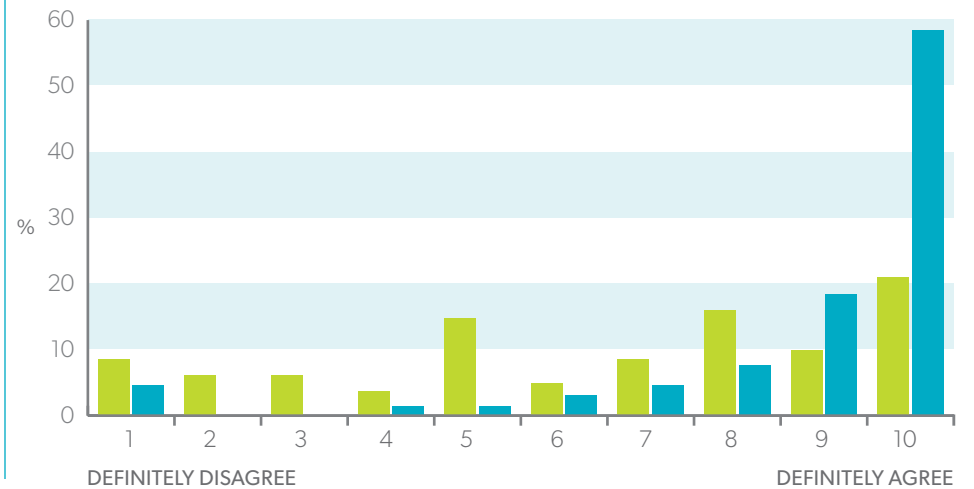
BANKING COMPLAINTS



INVESTMENT COMPLAINTS



INVESTMENT COMPLAINTS





Case Studies

The following case studies are provided as examples and are not meant to set precedents. OBSI assesses each complaint on its own merits and circumstances.

BANKING CASE STUDY #1

Debit Card Fraud

Mr. C was walking home one evening after spending time at a local bar when two women offered him a ride home. He accepted the offer and invited them over to his apartment for drinks. After a few glasses of wine, Mr. C then received a massage from one of the women while the other was in different room. Mr. C woke up alone the next morning to discover his debit card missing and someone else's card in its place.

Mr. C checked his account online and noticed several suspicious transactions totalling \$2,900. He notified his bank and the police. The bank agreed that Mr. C was a victim of a scam, possibly perpetrated by organized crime, and that the transactions were completed by another person. However, the bank noted that the correct PIN was

successfully entered on each transaction and the perpetrators could only have obtained it through Mr. C.

The bank declined to offer compensation on the basis that Mr. C had failed to properly protect his debit card and PIN. Mr. C then brought his complaint to OBSI.

COMPLAINT NOT UPHELD

Mr. C insisted he had not divulged his PIN to the women nor had it written down in his wallet. Our investigation revealed that Mr. C later revised his statement to the police, eight months after the incident, and claimed that drugs were slipped into his drinks. By this time, police had apprehended one of the women and identified a number of other victims, none of whom claimed to have been drugged.

During the course of our investigation, Mr. C admitted that, in retrospect, it was not prudent to have had two strangers in his apartment while leaving his wallet easily accessible on the dresser table. The *Canadian Code of Practice for Consumer Debit Card Services* limits clients' responsibility for the unauthorized use of a debit card when the losses incurred result from circumstances beyond their control. Given that it is unlikely the fraudsters would have been able to correctly guess his PIN, and that the circumstances in which Mr. C spent time with the two women were within his control, we could not find any basis to recommend the bank compensate Mr. C.

BANKING CASE STUDY #2

Teller Transactions

Ms. D went to her local bank branch to complete two transactions with a teller, although she had forgotten her passbook. According to her, the first transaction was to deposit \$2,200 into her account and purchase a money order in the same amount. She claimed she deposited the money in hundred dollar bills. The second transaction was to exchange \$120 in Canadian dollars for American currency.

Two weeks later Ms. D updated her passbook and was astonished to discover that the \$2,200 related to the first transaction had not been deposited. She complained to the bank and demanded her money back, suspecting theft. The bank refused

compensation citing insufficient evidence to support her claim, noting that the teller's transactions were fully balanced that day. Ms. D then brought her complaint to OBSI.

COMPLAINT SETTLED

Our investigation found Ms. D to be credible and her recollection of events was consistent throughout. She had also always kept her transaction records and financial statements in order. We reviewed the bank's security camera recordings and, in particular, the recordings focused on the teller counter where the disputed transaction took place. The recording showed Ms. D waiting in line before the video abruptly skipped ahead several minutes to the second transaction. The bank could not provide the missing footage relevant to the time period where the first transaction would have taken place.

As a result of the missing footage, we were unable to establish with certainty what exactly had transpired between Ms. D and the teller. The missing footage would have likely shown whether Ms. D produced \$2,200 in cash and, if so, how the cash was handled. After continued discussions with OBSI, the bank offered Ms. D \$1,100 as a goodwill gesture which she accepted.

BANKING CASE STUDY #3

Safety Deposit Boxes

Ms. V had leased two safety deposit boxes at her local bank branch. The contents included gold bars, certificates for gold bullion, silver bars, and jewelry purchased by her and her late husband. Ms. V later wished to grant her brother, Mr. G, full access to the two safety deposit boxes. New leases were created that identified Ms. V and Mr. G as joint tenants.

Without Ms. V's knowledge, Mr. G then closed one safety deposit box and terminated the lease of the other, allowing him to sign a new lease. The new lease added his wife as a joint tenant and prevented Ms. V from access to its contents. Upon discovering this, Ms. V complained to the bank, insisting it should

not have allowed Mr. G to make such changes. She asked the bank to seek the return of her belongings or compensate her for her losses, estimated to be \$43,000. When the bank refused, Ms. V brought her complaint to OBSI.

COMPLAINT NOT UPHELD

OBSI is not able to require a bank to pursue a third party such as Mr. G for the return of items. Therefore, our investigation was limited to a review of the leases and the authority of joint tenants, and to determining whether the bank had acted appropriately in allowing Mr. G's actions. The return of the items is a civil and possibly police matter.

We reviewed the leases and confirmed that Ms. V and Mr. G were joint tenants of both safety deposit boxes. According to the signed lease agreements, a joint tenant has the right to access the box or terminate its lease without consultation or permission of other joint tenants. While we sympathize with Ms. V over her strained relationship with her brother, we determined that the bank acted appropriately and in accordance with the lease agreement. OBSI did not recommend compensation.

BANKING CASE STUDY #4

Currency Exchange Rates

On July 8, Mr. H presented a \$70,000 USD cheque to be converted to Canadian funds and deposited it into his Canadian Dollar-denominated chequing account. A hold was placed on the funds.

On July 25, Mr. H inquired about the status of the hold. The branch manager informed him that the cheque had cleared and the hold was removed. An amount of \$73,000 CAD had been deposited into his account. Mr. H was unsatisfied, complaining that the bank should not have used the July 8 exchange rate to convert his funds but rather the July 25 exchange rate, the day the hold was removed. Furthermore, he indicated that the bank used an exchange rate different from the rate posted on

Bank of Canada's website. He demanded \$9,000 in compensation, the difference between the amount deposited into his account and what the converted amount would have been had the bank used the July 25 exchange rate provided by the Bank of Canada.

The bank declined to compensate, stating it followed the appropriate procedures applicable to all customers in a similar situation. Mr. H then brought his complaint to OBSI.

COMPLAINT NOT UPHELD

Our investigation determined that it was standard industry practice to convert foreign currency-denominated cheques to Canadian funds using the prevailing exchange rate on the day the deposit is made, not when the hold is removed.

As the Bank of Canada's website indicates "exchange rates are nominal quotations — not buying or selling rates — and are intended for statistical or analytical purposes." Indeed, "buy" and "sell" rates used by banks are different from the Bank of Canada's and can even differ between financial institutions. We reviewed the bank's "buy" rates for July 8 and determined the correct rate was applied.

We concluded that the bank had not erred and its actions were consistent with industry practice. As no financial loss had occurred, we did not recommend compensation.

BANKING CASE STUDY #5

Wire Transfer Scam

Mr. L had advertised his house online for rent. He was contacted by Ms. M, who lived overseas and indicated she was moving to Canada. After some back and forth communication, Mr. L agreed to rent to Ms. M, and they began discussing the rental amount.

Shortly after, Mr. L received a \$5,000 bank draft through the mail from an unknown sender. Ms. M explained that she owned a small business and that a customer, knowing she was moving to Canada, accidentally sent the draft to Mr. L by mistake. Rather than mailing the bank draft back to her, she instructed Mr. L to deposit the draft into his account and remit her \$3,000 for airfare. The difference would be their agreed-upon amount for first and last month's rent.

Mr. L deposited the draft but became suspicious. His friends had warned him that bank drafts could be counterfeit and, unsure, he went back to his bank to inquire. The teller confirmed the bank draft had cleared. She explained that since "the bank draft had not been returned by now; it is unlikely it will be returned in the future." Mr. L, reassured, withdrew \$3,000.

The next day, he returned and asked another teller about the draft, who also informed him that it had cleared.

As it happened, his bank also had a wire transfer service within the branch. Mr. L presented the

\$3,000 he withdrew earlier and asked for a wire transfer to an account in Africa. The bank teller completed the necessary forms and had Mr. L sign it. Later that day, Ms. M contacted Mr. L again asking for a \$1,500 loan for moving costs. Mr. L returned to the branch and made a second wire transfer.

Shortly after, the bank informed Mr. L that the \$5,000 bank draft was returned as counterfeit and that the \$5,000 deposit had been reversed.

Upset, Mr. L demanded \$4,500 in compensation, an amount equal to the two wire transfers. The bank claimed it was not responsible. It believed Mr. L ignored warnings that indicated fraud, including a fraud advisory on the website he listed his house on that stated "never send funds via wire transfer." Furthermore, the wire transfer form itself cautioned customers to "be careful" when dealing with strangers and sending money for offers made through the internet. Nevertheless, the bank offered \$2,250 as a goodwill gesture, an amount representing half the losses. Unsatisfied, Mr. L brought his complaint to OBSI.

COMPLAINT PARTIALLY UPHELD

Our investigation included a review of the interactions Mr. L had with bank staff and the warnings that the bank argued he should have followed. We believe the assurance the first teller provided Mr. L led him to conclude that the bank draft was legitimate. The interactions with the second teller provided another opportunity for bank staff to ask questions, which they did not. After inquiring about the bank draft the second time, Mr. L immediately asked for a wire transfer to be sent overseas. The circumstances of the transaction should have alerted the teller.

At the same time, we also believe Mr. L did not heed several fraud warnings. He admitted his own suspicions about the bank draft and had failed to appreciate the dangers of dealing with strangers online.

After completing our investigation, we recommended that responsibility for the loss be apportioned 75% to the bank and 25% to the client. Based on our conclusions the bank agreed to compensate Mr. L for \$3,375, representing three-quarters of the loss.

INVESTMENT CASE STUDY #1

Investment Suitability

Mr. and Mrs. Z were both in their sixties and retired. They owned their home, which was worth about \$160,000, and had a small amount of money deposited with their credit union. Their pension income was sufficient to meet their day-to-day needs, but they relied on their investments for larger expenses like home and car repairs.

In February 2006, Mr. and Mrs. Z each opened an RRSP and a non-registered account and transferred cash and investments worth about \$130,000 into the new accounts from another firm. Their new account applications showed that Mrs. Z had good investment knowledge while Mr. Z's was limited. Their investment objectives were shown as including a 50% allocation to moderate to higher-risk income-

producing investments, and 50% to moderate-risk growth-oriented investments.

Between 2006 and 2009, the advisor bought and sold various securities in Mr. and Mrs. Z's accounts, including exchange-traded funds (ETFs). In December 2009, their advisor left the firm and the couple was assigned a new advisor. In June 2010, Mr. and Mrs. Z transferred their accounts away from the firm.

In February 2011, Mr. and Mrs. Z complained to the firm that the ETFs that had been traded in their accounts were inappropriate and were too risky causing them losses. The firm did not offer Mr. and Mrs. Z any compensation and they escalated their complaint to OBSI.

COMPLAINT NOT UPHELD

We found that a balanced investment approach including both income and growth-type investments, up to a moderate risk level, was suitable given Mr. and Mrs. Z's ages and their plan to make periodic withdrawals from their investments for larger expenses. However, in their financial position, we could not conclude that they could afford to take high risk with any of their investments.

Based on our analysis, we agreed that the leveraged ETFs in Mr. and Mrs. Z's accounts were high-risk and were unsuitable. Our analysis also showed the advisor had bought and sold other unsuitable medium-high and high-risk investments in Mr. and Mrs. Z's accounts.

To determine if Mr. and Mrs. Z incurred any financial harm, we calculated the performance of all of the unsuitable investments and compared it to a suitable performance benchmark. Using

their investment objectives and risk tolerance parameters, the suitable performance benchmark was allocated 50% to a bond index, representing lower- to moderate-risk income investments, and 50% to an equity index representing moderate-risk growth investments. In calculating the suitable benchmark performance, we accounted for the timing of the unsuitable buys and sells and the trading costs they incurred, which we did not find unreasonable.

Our calculations showed that although Mr. and Mrs. Z had been unsuitably invested, the medium-high and high-risk investments, including the ETFs, had performed better than more suitable medium-risk investments would have by \$8,973. Therefore, they incurred no financial harm and we did not recommend the firm compensate the couple.

INVESTMENT CASE STUDY #2

Investment Suitability

In 2001, when she was 74 years old, Mrs. Y's advisor moved to a new firm. She transferred her investments with her advisor, opening a RRIF and non-registered account. The new account application form she signed in 2001 indicates her investment objective was "balanced" and she had low-to-moderate risk tolerance. The same information was shown on an updated form from 2005. The forms indicated wide asset allocation ranges allowing up to 70% in equity investments and up to 20% in aggressive investments and strategies.

In May 2007, when she was now 80 years old, Mrs. Y signed a discretionary managed account agreement and an Investment Policy Statement (IPS). Her accounts were assigned to a portfolio manager who could make discretionary investment decisions. The IPS describes Mrs. Y's investment objective as balanced, and says that while she was risk-averse and wanted to avoid wide swings in her investment values, she could tolerate some short-term variability. The IPS set a benchmark asset allocation of 60% fixed income, 40% equity. Although it was not printed on the IPS, the firm's policies allowed the portfolio manager to include up to 20% of a "balanced" portfolio in higher-risk securities.

Mrs. Y is legally blind and has serious health issues. She was withdrawing about \$25,000 from her RRIF

each year to supplement her pension and annuity income. The annuity had been purchased with the proceeds from the 2005 sale of her home to meet the costs of her move into an assisted living facility.

From 2001 to 2007, Mrs. Y's account values increased from approximately \$680,500 to approximately \$824,400, but she was still concerned with ensuring she had enough money to live on. The advisor's and portfolio manager's notes both show that Mrs. Y called on occasion about her concerns and that she was reassured. In November 2006, for example, Mrs. Y was told that most of her investments were principal guaranteed, and in May 2008, she was told that her portfolio was reasonably conservative and solid.

Over the years the advisor and the portfolio manager bought and sold a variety of cash-like

investments, bonds, equity-linked principal protected notes and stocks, ranging from low- to high-risk. In July 2008, the portfolio manager began purchasing leveraged and inverse exchange-traded funds (ETFs).

In the spring of 2010, Mrs. Y transferred her investments away from the firm. In September 2010, she complained to the firm requesting compensation, saying her investments were not aligned with the IPS parameters and the ETFs were not suitable given her age and conservative investor profile. When the firm did not offer Ms. Y any compensation, she escalated her complaint to OBSI.

COMPLAINT UPHELD

Mrs. Y recalls the advisor discussing low- to moderate-risk investments as being appropriate for her, which we believe she accepted. In addition, we found a low- to moderate-risk balanced portfolio, providing income and an opportunity for some growth, was appropriate in her personal and financial situation. However, with her visual impairment, Mrs. Y did not know the 2001 and 2005 new account forms indicated wide and unspecific asset ranges, including up to 20% in higher-risk investments or strategies. Such wide ranges and high equity and aggressive investment allocations are not typical for a balanced investment mix. Further, the advisor and portfolio manager had repeatedly assured her that her investments were conservative.

In Mrs. Y's circumstances, and given her income requirement and her concerns about her investment values, we concluded she could not tolerate and never agreed to hold high-risk investments. We also concluded that the 60% fixed income and 40% equity target asset allocation shown on the 2007 IPS was suitable. The firm argued it was important to consider the

investments, and in particular their performance, from the beginning in 2001, not only from 2007 to 2010. Therefore, we applied the IPS asset allocation to our suitability assessment of Mrs. Y's investments from 2001 to 2010.

Our analysis showed that Mrs. Y's accounts almost always held higher-risk investments, exceeding her low- to moderate-risk tolerance. In particular, the leveraged and inverse ETFs that were purchased in 2008 were complex, high-risk investments that were not at all suited to Mrs. Y's needs or objectives.

In addition, from 2001 to 2007, there were too many equity investments and not enough fixed income investments. Further, we identified active trading in long-term 20- and 30-year bonds after the discretionary managed account was opened in 2007. Although on one hand the bonds fit within Mrs. Y's fixed income allocation, with such long-term maturities, their prices would be sensitive to changes in interest rates. Therefore, active trading exposed her to a potential capital loss that was not consistent with her risk tolerance.

We compared the performance of the unsuitable investments to suitable bond and equity benchmarks, considering Mrs. Y's asset allocation targets. We calculated that Mrs. Y incurred approximately \$52,419 in financial harm due to unsuitable investments and asset allocations.

Based on our interviews with Mrs. Y and considering the available evidence, we found she had limited investment knowledge and relied on her advisors, both before and after the discretionary account was opened. Mrs. Y did not know and was not able to have determined that some of her investments were too risky or that they were not properly allocated until she sought another opinion in 2010, shortly before she transferred away from the firm. Therefore, we recommended and the firm agreed to compensate Mrs. Y for the full amount of her financial harm.

INVESTMENT CASE STUDY #3

Margin/Leverage

In January 2010, Ms. F placed an order to buy some stocks in her discount brokerage account and gave instructions for payment to be taken from her bank account. While Ms. F did not have enough money in her bank account to cover the full trade and was left with a large negative balance, she made a bank deposit the next day to cover the shortfall.

In April 2010, Ms. F placed another order to buy some stocks in her discount brokerage account. She again did not have sufficient funds in her bank account for the purchase. This time, she called the discount brokerage firm, asking it to delay its withdrawal from her bank account. The firm advised her that it could not delay the withdrawal, but suggested opening a margin account so trades could be settled on margin (the amount the firm would lend to Ms. F based on the value of the

securities in her account) with deposits to follow. The firm sent a margin account application to Ms. F. The next month, Ms. F returned the margin agreement to the firm authorizing it to convert her existing account to a margin account. Over the next 17 months she purchased a variety of stocks on margin. Ms. F occasionally exceeded her margin limit and the firm issued several margin calls requiring her to make deposits. Sometimes Ms. F made deposits; other times, she called the firm

asking for extensions. The firm sometimes granted extensions, and sometimes it sold securities to cover the margin deficit.

In November 2011, Ms. F complained to the firm that margin trading was unsuitable for her. She asked for compensation for her investment losses and the margin interest costs. Ms. F escalated her complaint to OBSI when the firm did not offer her any compensation.

COMPLAINT NOT UPHELD

Discount brokerage firms, where no investment advice is provided to clients, are not obligated to assess the suitability of investment or trading decisions, including the use of margin. We examined the account agreement Ms. F signed in May 2010 and found that this was clearly explained. Instead, Ms. F was responsible for understanding the risks of investments she selected and the strategies she used, and for determining if they were appropriate and acceptable.

We also listened to telephone call recordings between Ms. F and the firm. Before the firm approved the margin account, it called Ms. F to assess her understanding of how it would work. We found Ms. F demonstrated a reasonably good understanding of how much she could borrow, what it would be based on and what would trigger a margin call. In addition, the firm provided a clear

explanation of the margin interest costs Ms. F would incur if she made purchases on margin. On the calls, Ms. F also confirmed her understanding that she could incur losses.

Although it was not required to do so, the firm contacted Ms. F as a courtesy when it issued margin calls to warn her that it would sell securities if she did not make a deposit. During these calls, the firm also reminded Ms. F of the risks of continuing to trade on margin. Ms. F continued, knowing the risks.

The discount brokerage firm had no obligation to assess or advise Ms. F on the suitability of using margin to purchase stocks. Ms. F understood how the margin account worked and she was repeatedly reminded of the risks. In the circumstances, we found no basis to recommend the firm compensate Ms. F for her losses.

INVESTMENT CASE STUDY #4

Client Responsibility

In 2001, Mr. and Mrs. G opened a joint margin account and individual margin accounts. Their investment objectives were approximately 20% income and 80% growth, and allowed various amounts of short-term and higher-risk trading strategies. They had risk tolerance parameters of 60% medium and 40% high.

In 2006, Mr. and Mrs. G's accounts were transferred to a new advisor at the firm. Their income requirements had increased and they were seeking \$6,000 a month from their investments. The new advisor presented them with two options trading strategies for consideration: one focusing on income, the other on principal protection. The income strategy involved call and put spreads and targeted a 20% annual return regardless of how the markets performed. It was presented as having some high-risk, speculative elements, which the

advisor planned to manage by limiting the amount of money used in the strategy and by establishing limits at which the option positions would be closed. The principal protection strategy was presented as having little risk, but lower returns.

By late May 2006, all of their accounts had been approved for writing covered options and spreads. Almost all of the approximately \$408,000 in their accounts was used to implement the income strategy.

In April 2007, they met with their advisor to discuss their concerns about losses they were

incurring under the options program. In September 2007, Mr. and Mrs. G met with both the advisor and his branch manager to discuss their losses under the program. In December 2007, they complained to the firm seeking compensation, saying the advisor exposed too much of their portfolio to the income strategy, did not take steps to manage risk as described in the program and failed to advise them of losses when they occurred. The firm did not offer compensation and so the couple escalated their complaint to OBSI.

COMPLAINT PARTIALLY UPHELD

Our analysis of the options strategy showed that the advisor did not implement the strategy as he presented it and exposed Mr. and Mrs. G to far more risk and higher losses than he suggested was possible. In addition, he placed a series of uncovered call options in their accounts which were not approved.

Our investigation also found that Mr. and Mrs. G had some trouble following the options transactions on their statements and began to ask questions of the advisor in late 2006, about six months after the strategy was implemented. In early December 2006, Mr. G prepared a spreadsheet to try to calculate their losses, which he estimated at \$97,000. Although the advisor provided assurances and was optimistic that the program would still provide a 20% rate of return, we concluded Mr. and Mrs. G's correspondence

and calculations demonstrated a reasonable understanding of the increased risks they were exposed to. By the end of December 2006, they should have taken steps to avoid further losses if they were unwilling or unable to incur any more. They decided to remain in the program and, unfortunately, they incurred further losses.

We concluded the firm was responsible for the excess losses Mr. and Mrs. G incurred to the end of December 2006 due to the advisor's failure to properly implement the risk management techniques he outlined for the income strategy, and for the losses on the uncovered calls that should not have been permitted in their accounts. We calculated their financial harm as \$39,709. The firm accepted our conclusions and agreed to settle with Mr. and Mrs. G.

INVESTMENT CASE STUDY #5

Outside Business Activities

In 2007, Ms. T heard from a co-worker about an investment offering a monthly 3% interest payment, or \$4,500 on a minimum \$150,000 investment. Ms. T and her spouse, Mr. S, were interested and made contact for information. In October 2007, two advisors came to their home. The first advisor was there to provide information on the 3% monthly interest investment, which was structured as a loan to a real estate development company. The second advisor provided information about raising money for the minimum investment.

This second advisor helped Mr. S and Ms. T to establish a home equity line of credit. In December 2007, they borrowed \$100,000 against the line of credit to invest with the first advisor. In exchange, the couple received a \$100,000 promissory note with a three-year term. At the same time, they received post-dated cheques for \$3,000, each representing the monthly interest payments over three years from January 2008 to December 2010.

To meet the \$150,000 minimum investment, the second advisor also arranged for Ms. T to borrow against her Locked-in Retirement Account (LIRA) through a finance company. In December 2007, Ms. T signed a Loan Disclosure Statement, a Loan Agreement and Promissory Note, an Authorization to Distribute Loan Proceeds and a Loan Amortization Schedule to obtain a loan with

the finance company for \$87,000 with a 10-year term at a 9% interest rate. In February 2008, a bond issued by the finance company was deposited to the LIRA in exchange for the cash in the account. In turn, the finance company issued a cheque to Ms. T for \$86,130 (\$87,000 less fees).

In March 2008, Mr. S and Ms. T invested a further \$50,000 with the first advisor, bringing their real estate development company loan investment to \$150,000. They received additional post-dated cheques for the interest payments on the \$50,000. The second advisor referred them to another firm to invest the remainder of the money from the LIRA.

After November 2008, the post-dated cheques began bouncing. Mr. S. and Ms. T did not receive any further interest payments from the real estate development company, and they did not receive

any repayment of their capital. Regardless, they had to continue to make interest payments on the line of credit and on the finance company loan, which caused them financial strain. Further, in 2011, Canada Revenue Agency reassessed Ms. T for \$35,171 for not paying tax on the money that was withdrawn from her LIRA in 2008.

In May 2011, Mr. S and Ms. T complained to the second advisor's firm requesting compensation for their losses. They said the second advisor had assured them the cash flow from the \$150,000 investment would be enough to pay the interest on the line of credit and finance company loan, and that the interest on the loans was a tax write off. The firm denied any involvement in the investment and did not offer compensation. The couple then escalated their complaint to OBSI.

COMPLAINT NOT UPHELD

Mr. S and Mr. T never opened accounts with the second advisor's firm. Nevertheless, investment firms are responsible and liable for their advisor's actions and we considered whether it was reasonable for Mr. S and Ms. T to believe the second advisor was acting as a firm representative and whether they reasonably believed their investments were made through and approved by the firm.

During our investigation, Mr. S and Ms. T confirmed that the \$100,000 and \$50,000 investments were made with the first advisor. The first advisor was not licensed to sell securities as far as we can tell and he had no relationship with the second advisor's firm. The cheques they wrote for the investments were payable to the real estate development company and the interest payment cheques they received were signed by the first advisor on the real estate

development company's bank account. The LIRA statements Ms. T received did not show the second advisor's name or his firm's name. In addition, although Mr. S and Ms. T received a business card from the second advisor showing the firm's name, they were not aware he worked for the firm, but rather believed it was his own company. Mr. S and Ms. T did not meet the second advisor at his firm's office and they did not receive any account statements from the firm.

In the circumstances, although the second advisor assisted Mr. S and Ms. T to arrange financing, they did not know the second advisor worked for a firm and therefore, we could not conclude they believed he was representing the firm or that their investments were made through or approved by the firm. As a result, there was no basis to recommend the firm compensate Mr. S and Ms. T.



Complainant Profiles

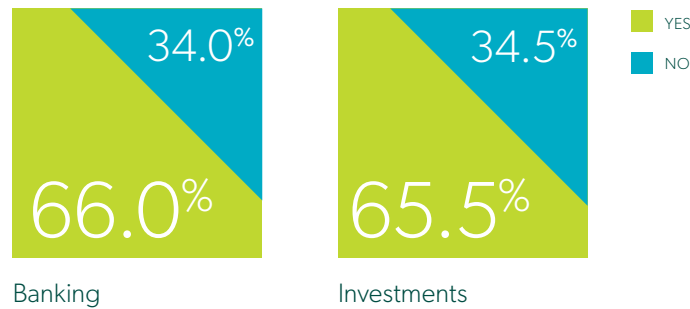
At OBSI we believe in the importance of knowing more about financial consumers and investors who bring their complaints to us. This helps us ensure that we provide a service that properly meets their needs and expectations, and is in the public interest.

Detailed Complainant Statistics*

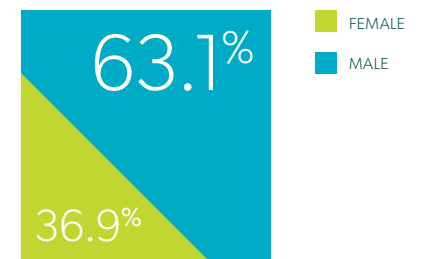
Throughout our 2012 fiscal year, we conducted detailed research into the profile of individuals who come to our office. With the support of a professional research firm, we asked about such things as age, ethnicity, education, occupation and income. What we found was instructive and sometimes surprising.

* Some percentages may not add up to 100% due to rounding.

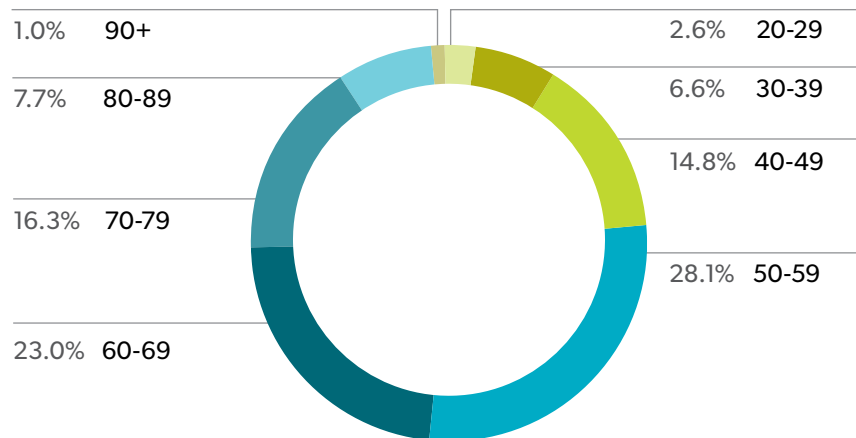
FINANCIAL FIRM ADVISED CLIENT OF OBSI



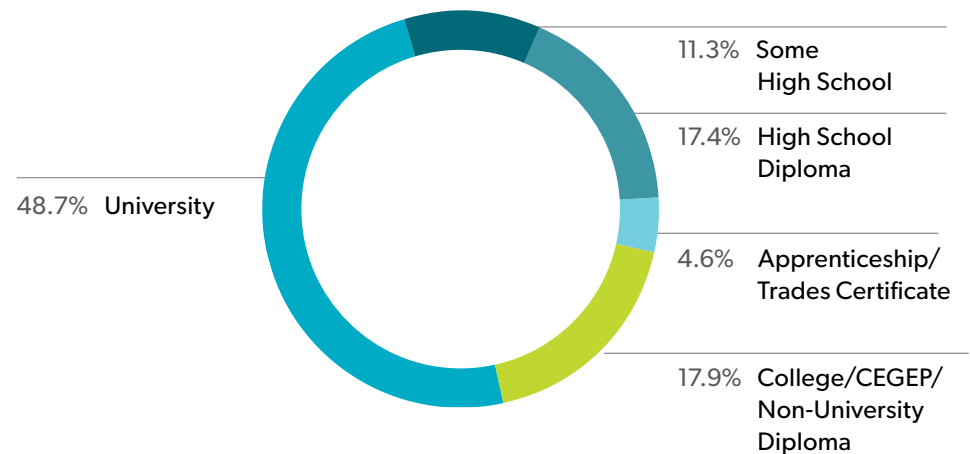
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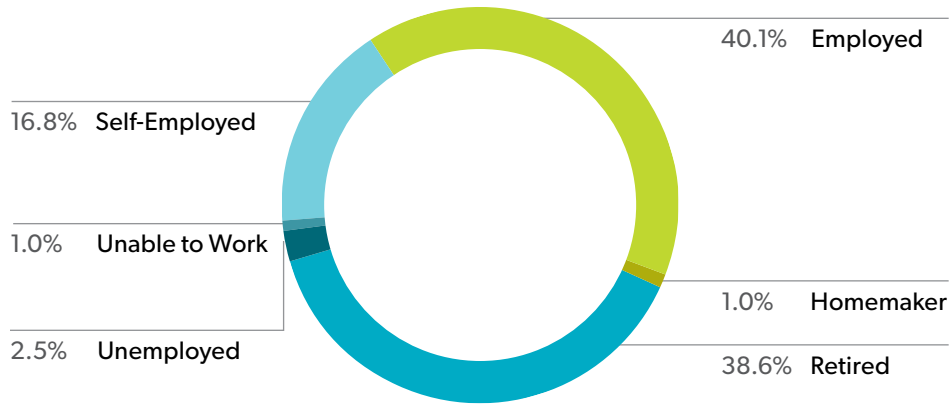
AGE OF CLIENTS



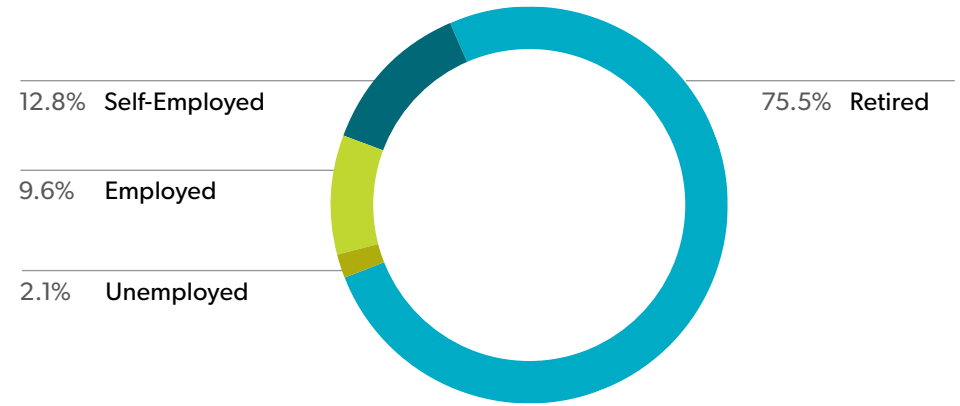
EDUCATION



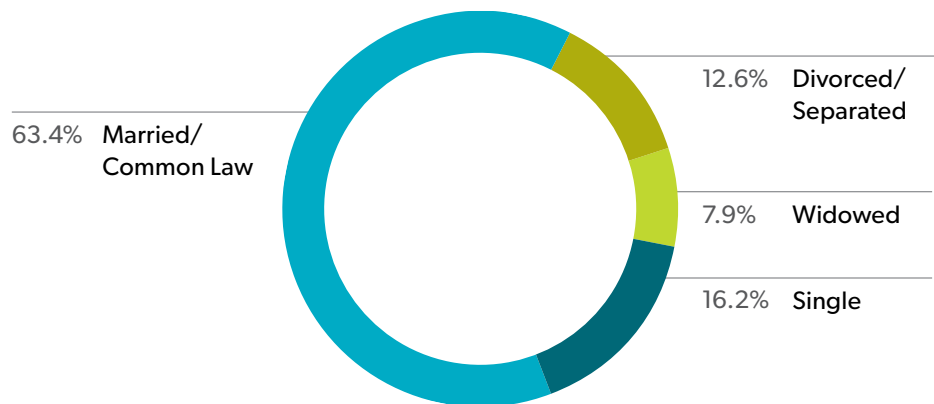
JOB STATUS



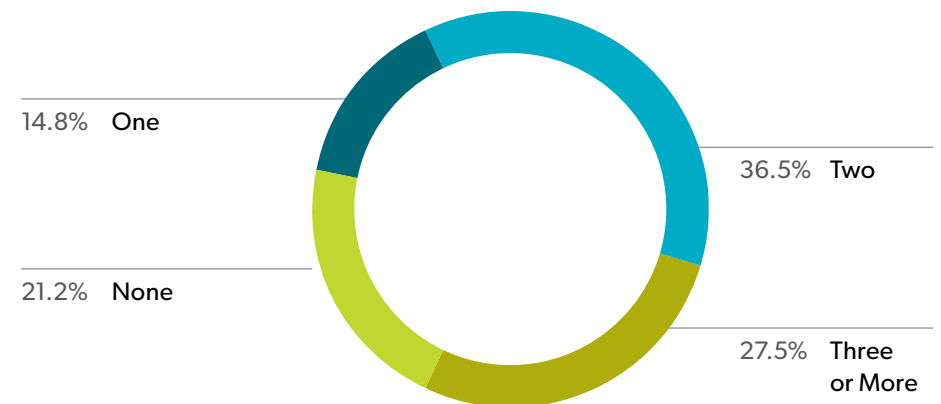
JOB STATUS (SENIORS ONLY)



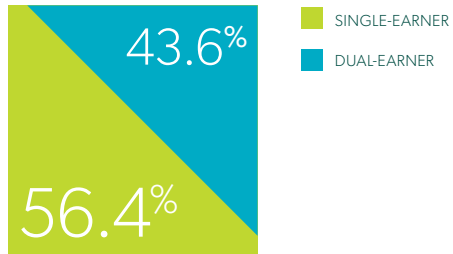
MARITAL STATUS



NUMBER OF CHILDREN



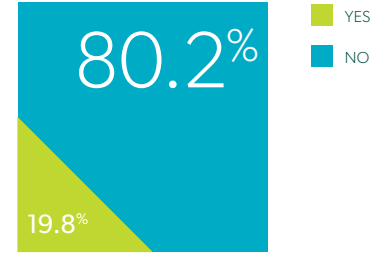
FAMILY INCOME - TYPE



HOME OWNERSHIP



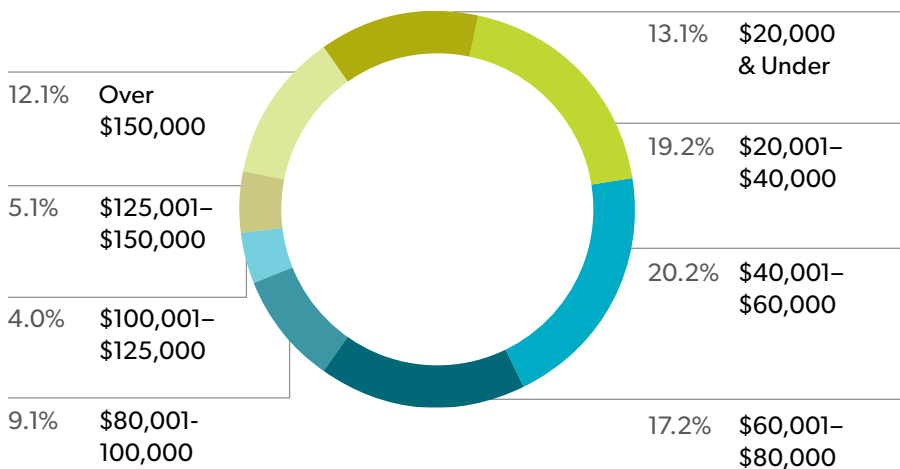
CHILDREN UNDER AGE 18



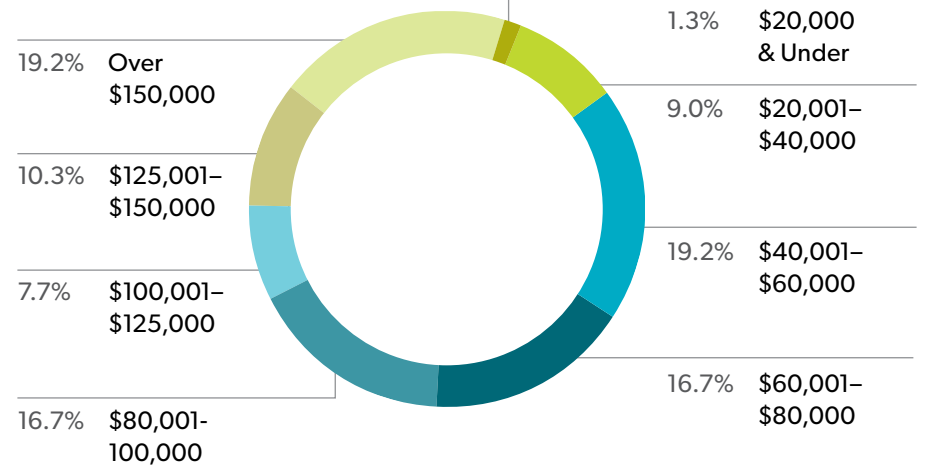
VISIBLE MINORITY



FAMILY INCOME (SINGLE-EARNER HOUSEHOLDS)



FAMILY INCOME (DUAL-EARNER HOUSEHOLDS)



Corporate Governance



Our governance structure ensures the Ombudsman and OBSI’s staff are independent and impartial, and have the necessary resources to carry out their jobs.

An independent and non-profit organization, OBSI is overseen by a Board of Directors. A majority are Community Directors and have not been part of the financial industry or government for at least two years prior to their appointment. A minority of the directors are appointed from groups of nominees provided by industry bodies.

Beyond the composition of the Board, further important safeguards of OBSI’s independence are in place. Votes on key independence questions are not only decided by a majority of votes cast by all Directors present at the meeting but also require a majority of the Community Directors present.

These key independence questions include such matters as the hiring and evaluation of the Ombudsman, the budget process, and changes to the Terms of Reference.

The search for board members balances diversity, geography and the need for a variety of backgrounds and skills. Collectively, the directors have experience in business, law, consumer and regulatory affairs, economics, community organizations, dispute resolution and public service.

Performance reviews of the Board and Board Chair are conducted every two years.

Strict rules prohibit the Board or individual directors from becoming involved with individual complaints. The final decision concerning complaints rests with the Ombudsman. There is no appeal to the Board, nor can the Board influence the decisions of the Ombudsman.

Board Committees

The OBSI Board of Directors had four active standing committees in 2012: Standards, Audit, Pension, and Independent Directors. There was also a Compensation subcommittee, and three ad hoc committees to oversee the transition to a new governance structure: Governance, Chair Search, and Director Search.

As part of the Board’s governance reform process, a new committee structure was established at the 2012 AGM. These committees will be reported on in next year’s 2013 Annual Report.

Board of Directors



Fernand Bélisle, Chair*

Mr. Bélisle brings to OBSI a wealth of experience navigating complex multi-stakeholder, highly-regulated environments. He was a trustee of the Canadian Association of Broadcasters (CAB) during their restructuring and is a consultant to several broadcast companies. Mr. Bélisle previously served as Vice Chair, Broadcasting, at the Canadian Radio-Television and Telecommunications Commission (CRTC), which followed a series of senior executive posts at the organization, including Secretary General. He is a current Director of Corus Entertainment, RNC Media, and Chair of Xittel Télécommunications. Mr. Bélisle has also served on a number of other boards and is active in the community.



Adrian Burns, LL.D

Ms. Burns currently serves on the National Arts Centre Board of Trustees and is a member of the Executive Committee of the Board of Directors of Shaw Communications. Ms. Burns is a past full-time commissioner of the CRTC as well as a former director of the Copyright Board of Canada. Ms. Burns also serves on the boards of several business and community organizations, including the Carthy Foundation and the RCMP Heritage Centre. She has received the Queen's Diamond Jubilee Medal, the Saskatchewan Distinguished Service Award, the United Way Community Builder Award, and has won several CanPro Gold Awards.



Jim Emmerton, LL.B*

Since 2007 Mr. Emmerton has been the Executive Director of the British Columbia Law Institute (BCLI) and Canadian Centre for Elder Law. He has served in various legal and senior executive capacities with John Labatt and Methanex Corporation and possesses a broad spectrum of knowledge in the fields of law, finance and corporate development. Mr. Emmerton was formerly a member of OBSI's Consumer and Investor Advisory Council. In 2011, he was the winner of the Western Canada ZSA/National Post Lifetime General Counsel award.



Angela Ferrante

Ms. Ferrante is a retired executive who served in senior executive roles with the Ontario Energy Board, BMO Financial Group, Ontario Power Generation and the C.D. Howe Institute. She has over thirty years of board governance experience, including as a Board Member of the Social Sciences and Humanities Research Council, the Canadian Journalism Foundation, the Ontario Institute for Studies in Education, and the Canadian Foundation for Governance Research. Ms. Ferrante currently serves as Chair of the Toronto Central Local Health Integration Network and is on the boards of VIA Rail and the Independent Electricity System Operator.



Craig Hayman (IIROC nominee)

Mr. Hayman, CFA, is a partner of Edward Jones, an independent financial services firm that helps individual investors achieve their financial goals with investment and insurance solutions. He is responsible for Recruiting, Training and Developing Financial Advisors throughout Canada.



Lynne Kilpatrick (CBA nominee)

Ms. Kilpatrick is Senior Vice President and Head, Enterprise Customer Experience at BMO Financial Group. In her previous role, Ms. Kilpatrick was SVP, Retail Banking for BMO in Canada with accountability for segment and customer strategies, marketing, customer experience, sales force productivity and data insights and analytics. She began her career as a business journalist working for the Wall Street Journal and the Financial Times of Canada.



Ian Lightstone

Mr. Lightstone is currently a director of MJI Global and ArtsandTV.com. He is a past member of the Board of Directors and Past-Chair of Bridgepoint Health Foundation, member of the Board of Directors of Gore Mutual Insurance Company and a Fellow of both the Market Research Intelligence Association and the Dobson Centre for Entrepreneurial Studies. Previously, he was the founding Principal of Thompson Lightstone Company, one of Canada's largest market research firms.



Louise Martel

Mme Martel, FCPA, FCA, is director of the accounting studies department and director of the International Watch Centre for Financial Information at the École des Hautes Études commerciales de Montréal. She also acts as a coach in accounting/finance for senior corporate executives and participates in international projects. She is a member of the board and president of the audit committee of Télé-Québec.



Kevin E. Regan (MFDA nominee)*

Mr. Regan is Executive Vice-President and Chief Financial Officer of IGM Financial Inc. He was appointed to the role in May 2012 following just over two decades with the company in a variety of senior roles. Mr. Regan is currently on the Board of Directors of the Mutual Fund Dealers Association (MFDA) Investor Protection Corporation and the Council of the Institute of Chartered Accountants of Manitoba.




Janis Riven, LL.B, BCL, MBA*

Ms. Riven is a governance and compliance consultant and an adjunct professor at the John Molson School of Business at Concordia University. Prior to 2003 she worked in the financial industry in a variety of legal and compliance roles.

* Director served on the Board for a portion of 2012.





There were several changes to the composition of the Board of Directors this year. We thank all the Directors who are no longer on the Board for their valued contribution to OBSI over the years.

Dr. Peggy-Anne Brown*

Dr. Brown is President and Co-owner of Brown Crawshaw, a Vancouver-based company specializing in employee and family assistance programming, critical incident response and wellness training. Dr. Brown, a psychologist, is an active major shareholder in two other human resources consulting firms.

Leonard G. (Len) Flett*

Mr. Flett, a management consultant, is a retired executive with The North West Company, the leading retailer in northern markets. He serves on the Board and is the former Chair of the National Aboriginal Achievement Foundation, past-president of Me-Dian Credit Union, past-chair of Aboriginal Business Development Corporation (Winnipeg) and past director of Winnipeg 2000 (City of Winnipeg Development Corporation).

Daniel F. Gallivan, Q.C.*

Mr. Gallivan is the Chief Executive Officer and Managing Partner of Cox & Palmer, an Atlantic Canada law firm. He specializes in corporate commercial, energy, and securities law. Mr. Gallivan is also a former director of the Bank of Canada and a former Vice-Chair of the Nova Scotia Securities Commission.

Ed Legzdins (MFDA/IFIC-appointee)*

Mr. Legzdins serves as Senior Vice-President, Retail Investments and Managing Director, International with BMO Financial Group. Mr. Legzdins' responsibilities include leading BMO's non-North American business strategy and overseeing BMO's businesses outside North America, including International Financial Institutions, Trade Finance and its businesses in Asia.

Director Attendance

PRESENT
 ABSENT
 NOT APPLICABLE

There were five regularly-scheduled meetings of the Board in 2012.

REGULARLY-SCHEDULED BOARD MEETINGS					
	01/19/2012	01/20/2012	02/28/2012	06/05/2012	09/11/2012
Peggy-Anne Brown, Chair	•	•	•	•	•
Fernand Bélisle, Chair					•
Adrian Burns	•	•	•	•	•
Jim Emmerton					•
Angela Ferrante	•	•	•	•	•
Leonard G. (Len) Flett	•	•	•	•	•
Daniel Gallivan	•	•	•	•	•
Craig Hayman	•	•	•	•	•
Lynne Kilpatrick	•	•		•	•
Ed Legzdins	•	•	•		
Ian Lightstone	•	•	•	•	•
Louise Martel	•	•	•	•	•
Kevin Regan					•
Janis Riven					•

In addition, there were four special teleconference meetings of the Board, and one meeting to conduct interviews with Chair candidates.

SPECIAL BOARD MEETINGS					
	11/28/2011	02/02/2012	04/30/2012	06/04/2012	08/30/2012
Peggy-Anne Brown, Chair	•	•	•	•	•
Fernand Bélisle, Chair					
Adrian Burns	•	•	•	•	•
Jim Emmerton					
Angela Ferrante	•	•	•	•	•
Leonard G. (Len) Flett	•	•	•	•	•
Daniel Gallivan	•	•	•		•
Craig Hayman	•	•	•		
Lynne Kilpatrick	•	•	•		•
Ed Legzdins		•	•		•
Ian Lightstone	•	•	•	•	•
Louise Martel	•	•	•	•	•
Kevin Regan					
Janis Riven					

PRESENT
 ABSENT
 NOT APPLICABLE

BOARD COMMITTEES

The OBSI Board of Directors had four active standing committees in 2012: Standards, Audit, Pension, and Independent Directors. There was also a Compensation Subcommittee, and three ad hoc committees to oversee the transition to a new governance structure: Governance, Chair Search, and Director Search.

Standards Committee

The Standards Committee is responsible for overseeing OBSI’s quality and performance standards and making recommendations to the Board of Directors regarding the organization’s performance against regulatory requirements and expectations. The Standards Committee met five times by teleconference.

STANDARDS COMMITTEE					
	11/21/2011	12/13/2011	12/21/2011	01/12/2012	01/16/2012
Ian Lightstone, Chair	•	•	•	•	•
Peggy-Anne Brown	•	•	•	•	•
Adrian Burns	•	•	•	•	•

Audit Committee

The Audit Committee meets quarterly and reviews the financial statements of the organization, as well as receiving the report of the external auditor of OBSI. The Audit Committee met four times.

AUDIT COMMITTEE				
	01/20/2012	02/27/2012	06/05/2012	09/11/2012
Daniel Gallivan, Chair	•	•	•	•
Peggy-Anne Brown	•	•	•	•
Leonard G. (Len) Flett	•	•	•	•
Craig Hayman		•	•	•
Louise Martel	•	•	•	•

Pension Committee

The Pension Committee oversees the defined contribution pension plan for OBSI, including reviewing fund performance. The Pension Committee met three times in person and once by teleconference.

PENSION COMMITTEE				
	01/20/2012	02/27/2012	05/22/2012	09/11/2012
Daniel Gallivan, Chair	•	•	•	•
Peggy-Anne Brown	•	•	•	•
Angela Ferrante	•	•	•	•
Leonard G. (Len) Flett	•	•	•	•

Director Attendance (continued)

PRESENT
 ABSENT
 NOT APPLICABLE

Independent Directors Committee

The Independent Directors Committee has several duties, including overseeing the hiring and evaluation of the Ombudsman, the budget process, and independent director nominations. The Independent Directors Committee met five times.

INDEPENDENT DIRECTORS COMMITTEE					
	01/19/2012	01/20/2012	02/28/2012	06/05/2012	09/11/2012
Peggy-Anne Brown, Chair	•	•	•	•	•
Adrian Burns	•	•	•	•	•
Angela Ferrante	•	•	•	•	•
Leonard G. (Len) Flett	•	•	•	•	•
Daniel Gallivan	•	•	•	•	•
Ian Lightstone	•	•	•	•	•
Louise Martel	•	•	•	•	•

Compensation Subcommittee

The Compensation subcommittee, which reports to the Independent Directors Committee, oversees the performance management of the Ombudsman and his compensation. The Compensation Subcommittee met once by teleconference.

COMPENSATION SUBCOMMITTEE	
	02/16/2012
Peggy-Anne Brown, Chair	•
Adrian Burns	•
Daniel Gallivan	•

PRESENT
 ABSENT
 NOT APPLICABLE

Chair Search Committee (ad hoc)

Working with an executive search firm, the Chair Search committee developed the criteria a new OBSI Chair was required to meet and conducted interviews with a shortlist of candidates.

CHAIR SEARCH COMMITTEE						
	02/01/2012	02/16/2012	05/04/2012	05/11/2012	05/18/2012	05/29/2012
Adrian Burns	•	•	•	•	•	•
Len Flett	•	•	•	•	•	•
Ed Legzdins	•	•	•	•	•	•
Louise Martel	•	•	•	•	•	•

Governance Committee (ad hoc)

The Governance Committee was responsible for developing a new governance framework for OBSI, leading the public consultations on the framework, and overseeing the development of a new By-law. There were seven full meetings of the Committee, with additional work conducted via email.

GOVERNANCE COMMITTEE							
	02/03/2012	02/09/2012	03/23/2012	03/30/2012	05/10/2012	05/22/2012	06/04/2012
Angela Ferrante	•	•	•	•	•	•	•
Daniel Gallivan	•	•	•	•	•	•	•
Lynne Kilpatrick	•	•	•	•	•	•	•
Ed Legzdins	•	•	•	•	•	•	
Ian Lightstone	•	•	•	•	•	•	•
Louise Martel		•	•	•	•		•

Director Search Committee (ad hoc)

Similar to the Chair Search Committee, the Director Search committee worked with an executive search firm to develop criteria and conduct interviews with a shortlist of candidates to replace several long-serving Directors who were stepping down from the Board.

DIRECTOR SEARCH COMMITTEE				
	07/16/2012	08/14/2012	08/23/2012	08/30/2012
Adrian Burns	•	•	•	•
Craig Hayman	•	•	•	•
Ian Lightstone	•	•	•	•

An aerial photograph of a rural landscape featuring various agricultural fields in shades of green, brown, and blue. A prominent dark green rectangular box is overlaid on the upper left portion of the image, containing the text 'Financial Highlights' in white. A single tree is visible on the right side of the image.

Financial Highlights

OBSI's 2013 budget is the second annual budget in a row to show a year-over-year decline in proposed operating expenditures. OBSI continues to place a significant emphasis on controlling expenses, and ongoing efforts to improve the efficiency of OBSI's operations have continued to yield cost savings.

Most of OBSI's expenses are investigative staff costs, with an approximate two-thirds allocation to our investment sector work and one-third to the banking mandate. TD's withdrawal from OBSI for banking complaints created a significant shortfall in 2012 budgeted revenue. That unanticipated revenue impact, coupled with declining banking complaint volumes, necessitated reductions in staff handling banking complaints.

At the same time, Directors' fees and expenses were up significantly in 2012. Most of those incremental costs were associated with the implementation of recommendations from OBSI's 2011 external review conducted by The Navigator Company of Australia. These governance-related expenses included the hiring of an executive search firm to find a new Chair and Community Directors for OBSI's Board, legal fees associated with developing

a new governance framework and corporate bylaw, costs associated with the independent review mechanism for stuck complaints, and a more frequent Board and committee meeting schedule than expected. In 2013, OBSI has budgeted for these governance-related expenses to return to more normal levels. We are very pleased to report that, through very tight expense control, we were able to complete the 2012 fiscal year on budget despite the unanticipated revenue pressures and one-time costs associated with the implementation of the external reviewer's recommendations.

Looking forward, OBSI has engaged with efficiency consultants to identify opportunities to speed up our process, particularly in what we term Phase 3 (post-investigation client and firm decisions on OBSI recommendations). It is our intention to cease spending endless months iterating with firms,

particularly in the investment sector, in an attempt to resolve cases where the firms are resistant to OBSI's conclusions. Instead we will move more quickly to announcing refusals to compensate as required under Section 27 of our Terms of Reference. By speeding up the end-game of our process, we expect to free up additional internal capacity, which will allow us to manage a greater caseload more rapidly without the same pressure on participating firm fees. This will, however, depend to a significant degree upon the cooperation and goodwill of participating firms. We look forward to working with our industry stakeholders to continue to identify means of improving the effectiveness and efficiency of our work while maintaining the level of integrity with which we perform our public interest mandate.

OBSI's financial statements were audited by Crowe Soberman LLP.

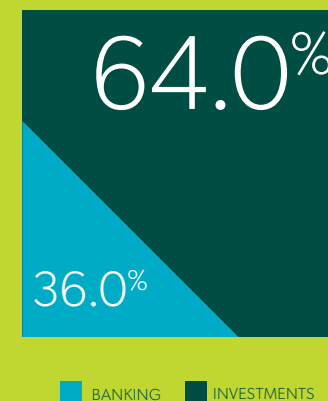
FINANCIAL HIGHLIGHTS

Fiscal Year Ended October 31


	2013 BUDGETED	2012 AUDITED	2011 AUDITED	2010 AUDITED	2009 AUDITED
REVENUE					
Participating Firm Fees	\$ 7,759,566	\$ 7,800,221	\$ 8,599,862	\$ 7,668,402	\$ 5,524,779
Other				\$ -	\$ -
Interest Income		\$ 11,797	\$ 12,787	\$ 6,015	\$ 12,937
	\$ 7,759,566	\$ 7,812,018	\$ 8,612,649	\$ 7,674,417	\$ 5,537,716

	2013 BUDGETED	2012 AUDITED	2011 AUDITED	2010 AUDITED	2009 AUDITED
EXPENSES					
Personnel	\$ 6,111,966	\$ 5,792,229	\$ 5,830,726	\$ 5,357,004	\$ 4,850,314
Directors' Fees and Expenses	\$ 420,550	\$ 844,271	\$ 384,734	\$ 306,806	\$ 364,266
Rent and Operating Costs	\$ 350,000	\$ 313,372	\$ 305,169	\$ 301,364	\$ 309,028
Marketing and Membership	\$ 201,400	\$ 136,940	\$ 171,414	\$ 111,448	\$ 138,316
Supplies, Services and Travel	\$ 140,900	\$ 119,828	\$ 128,442	\$ 126,422	\$ 127,157
Telephone	\$ 83,000	\$ 85,004	\$ 88,555	\$ 108,413	\$ 103,390
Information Technology and Support	\$ 127,000	\$ 117,727	\$ 122,829	\$ 112,197	\$ 112,703
Corporate Administrative	\$ 119,000	\$ 115,806	\$ 88,065	\$ 83,361	\$ 85,659
Legal Fees	\$ 142,250	\$ 155,059	\$ 175,486	\$ 137,155	\$ 138,716
Insurance	\$ 14,500	\$ 11,891	\$ 11,896	\$ 18,479	\$ 18,419
Audit Fees	\$ 28,000	\$ 26,725	\$ 25,425	\$ 22,600	\$ 18,850
Consultant Fees	\$ 16,000	\$ 23,424	\$ 29,115	\$ 28,844	\$ 88,099
Other	\$ 5,000	\$ (10,273)*	\$ 33,005	\$ 50,569	\$ 8,393
Amortization		\$ 79,967	\$ 88,017	\$ 83,212	\$ 68,603
	\$ 7,759,566	\$ 7,811,970	\$ 7,482,878	\$ 6,847,874	\$ 6,431,913
One-Time Projects	\$ -	\$ -	\$ 932,312	\$ 487,872	\$ -
Total Expenses	\$ 7,759,566	\$ 7,811,970	\$ 8,415,190	\$ 7,335,746	\$ 6,431,913
Excess of Revenue over Expenses		\$ 48	\$ 197,459	\$ 338,671	\$ (894,197)

Share of Expenses Associated with Each Sector



* Accounts receivable (participating firm fees) previously written off that were collected



OBSI's 2013 budget is the second annual budget in a row to show a year-over-year decline in proposed operating expenditures.



Statistical Data

Opened case files

Year	# of opened files
2008	670
2009	990
2010	1024
2011	802
2012	656

Opened banking case files

Year	# of opened files
2008	324
2009	391
2010	462
2011	397
2012	210

Opened investment case files

Year	# of opened files
2008	346
2009	599
2010	562
2011	405
2012	446

Compensation

	Total	Average	Median	Lowest	Highest	#of case files
Banking	\$ 123,938	\$ 3,178	\$ 900	\$ 100	\$ 20,075	39
Investments	\$ 3,640,695	\$ 22,613	\$ 11,000	\$ 50	\$ 193,943	161
ALL	\$ 3,764,633	\$ 18,823	\$ 7,500	\$ 50	\$ 193,943	200

In 2012, 200 cases files ended with monetary compensation to the client, worth a total of \$3,764,633. This represents 31% of all closed case files. 14% of banking complaints (39 of 273) and 42% of investment complaints (161 of 381) ended with monetary compensation. In addition, four complaints ended in some form of non-monetary restitution, such as a corrected credit bureau rating. There were two such cases related to each of banking and investments.

Contacting OBSI

Channel	# of inquiries	%
Email	1397	23%
Fax	423	7%
Mail/Courier	426	7%
On-line	275	5%
Phone	3428	58%
Walk-in	2	0%
TOTAL	5951	100%

Where do Complaints Come From?

As a national service, OBSI gets complaints from coast to coast to coast. We also see files from customers of participating firms living abroad who have banking and investment relationships with firms in Canada.

This table compares the percentage of complaints received by OBSI by province or territory. The proportionately lower number in Quebec reflects the fact that the caisses populaires Desjardins do not participate in OBSI for banking services and the AMF provides redress mechanisms for investors that do not exist in other jurisdictions.

*percentages do not add up to 100.0% due to rounding

Jurisdiction	Complaints
Ontario (ON)	50.8%
British Columbia (BC)	14.5%
Quebec (QC)	13.3%
Alberta (AB)	10.5%
Nova Scotia (NS)	2.6%
Manitoba (MB)	2.1%
Saskatchewan (SK)	2.1%
International (INT)	2.6%
New Brunswick (NB)	0.9%
Prince Edward Island (PE)	0.5%
Northwest Territories (NT)	0.2%
Newfoundland and Labrador (NL)	0.0%
Yukon Territory (YK)	0.0%
Nunavut (NU)	0.0%
	100.1%*

656

opened cases
in 2012

■ Banking Cases ■ Investment Cases



TIME FRAMES – BANKING

The federal government recently announced a new time frame standard for the resolution of banking complaints that differs from OBSI’s previous benchmark. Effective September 2013, an external complaint body such as OBSI must make a final written recommendation to the parties to a complaint no later than 120 days after the day on which it received the information that it required to deal with the complaint. While OBSI was not subject to this standard in 2012, we are now using this benchmark as the basis for reporting on banking complaint time frames.

	Average number of days to close case file
Straightforward investigations	41.0
All investigations	93.5

TIME FRAMES – INVESTMENTS

OBSI reports on investment complaint time frames using different benchmarks than that required by the federal government for banking complaints. Information on the definitions used in OBSI’s reporting is found below and on the next page.

Straightforward investigations

	Phase 1: Intake and Assessment	Phase 2: OBSI Investigation	Phase 3: Firm/Client Decision-Making	Total per file average
Average time spent in phase (days)	146.6	48.6	5.5	196.6

All investigations

	Phase 1: Intake and Assessment	Phase 2: OBSI Investigation	Phase 3: Firm/Client Decision-Making	Total per file average
Average time spent in phase (days)	158.7	128.5	92.5	325.9

Phase 1: Intake and Assessment

- Time period measured from the opening of a complaint file through to assignment to an investigator.
- Begins with receipt of consent letter from the client. Includes the time spent sending the consent letter to the firm, waiting to receive both the consent letter and client file from the firm, and the initial assessment of the file by one of OBSI’s Case Review Officers (CROs).
- Includes any delays resulting from an increase in complaint volumes or insufficient funding and staffing resources that delay the assignment of the file to an investigator.

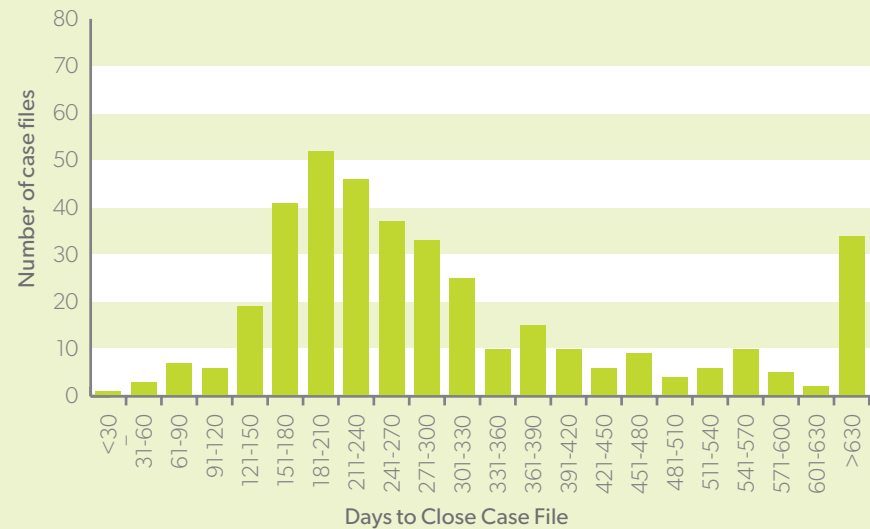
Phase 2: OBSI Investigation

- Time period measured from the file being assigned to an investigator through to OBSI forming a view of the complaint’s merits, and either communicating our initial compensation recommendation to the firm or closing the file if no compensation is warranted.
- Includes both OBSI’s investigative process as well as factors outside of OBSI’s control, such as insufficient firm or client cooperation, failure to receive requested documents or information, and delays in clients or firm representatives making themselves available for interviews.

Phase 3: Firm/Client Decision-Making

- Covers only those complaint files where OBSI believes compensation is warranted. The majority of cases spend zero days in the phase and are not counted in time frame calculations.
- Time period measured from communicating our initial compensation recommendation to the firm through to closure of a case file, either with the firm compensating the client or officially refusing OBSI’s recommendation.
- Includes the firm’s decision-making process when deciding what action to take with regard to the complaint following OBSI’s conclusion that compensation is warranted. After the firm has agreed to compensation, in most cases the client accepts the settlement the same day, though OBSI’s process allows clients up to 30 days to decide.

Investments



Benchmark	Number of investment case files	Percentage of total
≤ 180 Days	77	20.2%
> 180 Days	304	79.8%
TOTAL	381	100%

Banking Products

Product	Main Product	Secondary Product	Product	Main Product	Secondary Product
Cheque	2	3	Loan - Mortgage	68	5
Cheque - Bank Draft	4	0	Loan - Other	1	0
Cheque - Certified	0	1	Loan - Overdraft Protection	2	2
Cheque - Official	1	1			
Credit Card	59	4	Loan - Personal	1	0
Debit Card	20	1	Loan - Student	4	1
Home Buyer Plan (HBP)	1	2	Loans	1	0
Insurance - CMHC/GE	2	0	Merchant Card Services	2	1
Insurance - Credit Protection	2	2			
Insurance - Disability	0	1	Other	1	0
Insurance - Life	5	0	Safety Deposit Box	6	0
Insurance - Travel	0	4	Transaction Account - Commercial	8	7
Investment - GIC/ Term Deposit	6	1			
Investment - Other	2	0	Transaction Account - Estate	3	0
Investment - RRIF	2	0	Transaction Account - In Trust	1	0
Investment - RRSP	4	2			
Investment - RRSP (Self-Directed)	1	0	Transaction Account - Joint	1	1
Loan - Car	3	1	Transaction Account - Personal	37	9
Loan - Commercial	3	0			
Loan - Consolidation	1	0	Transfer - Electronic	0	1
Loan - Home Equity	0	1	Transfer - Wire/SWIFT	5	1
Loan - Line of Credit	14	6			

Banking Issues

Issue	Main Issue	Secondary Issues	Issue	Main Issue	Secondary Issues
Bankruptcy	2	1	Missing or Lost Funds/Assets	11	4
Change of Address	0	1			
Chargeback	12	2	Operational decision	0	1
Cheque - Drawee Signature	0	1	Overpayment Scheme	1	0
			Partner/Spouse Issues	3	4
Cheque - Endorsement	0	2	Penalty	24	6
Cheque - Stale-dated	1	0	Poor performance	0	1
Claim Denied	2	0	Power of Attorney	1	1
Collection	13	7	Premiums	2	0
Credit Report Rating	7	12	Privacy	8	0
Daily Limit	1	1	Product Modification	4	1
Disclosure	3	7	Relationship Ended	11	5
Error - Bank	16	14	Rewards	2	3
Error - Client	0	1	Risk/Business Decision	8	8
Error - Third Party	0	1			
Fees	13	5	Service	54	18
Fraud	36	4	Statement/Passbook	2	0
Guarantor/Security	1	0	Stop Payment	2	4
Hold on Funds	1	2	Transaction - ABM	1	0
Information - Incomplete/Wrong/ Misrepresentation	6	11	Transaction - Branch	3	3
			Transaction - Foreign Exchange	2	1
Interest Rate	9	4	Transaction - Unauthorized	5	3
Misleading Publicity/ Promotion	2	0			
Misrepresentation	1	0	Transactional error	1	0
			Trust/Integrity	1	0
			Verification Clause	1	2

Investment Products

Product	Main Product	Secondary Product
Bonds	15	5
Common Shares, Preferred Shares	100	12
Exchange-Traded Funds (ETFs)	10	2
Hedge Funds	2	2
Income Trusts	7	15
Labour-Sponsored, Flow-Through Shares	2	6
Mutual Funds	167	12
Options, Derivatives	7	1
Other	31	2
Principal-Protected Notes (PPNs)	6	1
Registered Education Savings Plan (RESP)	1	0
Scholarship Trust Plans	22	0
Segregated Funds, Guaranteed Investment Fund, Annuity	11	1

Investment Issues

Issue	Main Issue	Secondary Issues
Fee Disclosure	44	32
Fraud	5	1
Inappropriate Advice	5	5
Inappropriate Investment Strategy	3	4
Incomplete or Inaccurate Disclosure About a Product	17	16
Instructions Not Followed	13	8
Margin Issues	10	1
Other	3	2
Outside Business Activities, Off-Book Transactions	9	3
Performance	5	5
Service Issue	20	21
Suitability	146	29
Suitability of Margin or Leverage	33	10
Transaction errors	30	3
Transfer Delay	16	2
Unauthorized transaction and/or Churning	22	17

Top 10 Firms with inquiries

Firm*	# of inquiries	% of total
TD	826	14%
BMO	622	11%
Scotia	531	9%
CIBC	487	8%
RBC	366	6%
Capital One Bank	275	5%
National	242	4%
HSBC	230	4%
Citibank	121	2%
President's Choice Bank	117	2%

* includes any banking or investment affiliates and subsidiaries.

In 2012, 288 out of 366 RBC inquiries (79%) and 691 out of 826 TD inquiries (84%) were about banking services, despite RBC having withdrawn from OBSI for banking complaints back in 2008 and TD in 2011. This clearly shows the confusion created for consumers in an environment where multiple dispute-resolution providers exist.

Top 10 Firms – Opened Cases – Banking

Firm	# of opened cases	% of total
Scotia	67	32%
CIBC	50	24%
BMO	20	10%
National	12	6%
Laurentian	11	5%
HSBC	9	4%
President's Choice Bank	7	3%
Capital One Bank	6	3%
Amex Bank of Canada	3	1%
Citibank	3	1%
Credit Union Central of Alberta	3	1%

Top 10 Firms – Opened Cases – Investments

Firm	# of opened cases	% of total
Investors Group	49	11%
TD	41	9%
BMO	36	8%
National	26	6%
RBC	22	5%
Scotia Capital	21	5%
Dundee	18	4%
Canaccord Genuity	17	4%
CIBC	17	4%
WFG Securities of Canada Inc.	12	3%

OPENED CASE FILES BY SECTOR AND FIRM
Banking Services

Firm	Cases	Firm	Cases
AGF Trust Company	1	Equitable Trust Company (The)	1
Alterna Bank	1	HSBC Bank Canada	9
Alterna Savings	1	ICICI Bank Canada	1
Amex Bank of Canada	3	ING Direct	2
Bank of Montreal	20	Jameson Bank	1
BofA Canada Bank	1	JP Morgan Chase Bank N.A., Canada	1
Bridgewater Bank	1		
Canadian Tire Bank	2	Laurentian Bank	11
Canadian Western Bank	1	Manulife Bank of Canada	2
Capital One Bank	6	National Bank of Canada	12
CIBC	50	President's Choice Bank	7
Citibank	3	ResMor Trust Company	1
Concentra Trust	1	Scotiabank	67
CONEXUS Credit Union	1	Servus Credit Union Ltd.	3
		TOTAL	210

Investments – IIROC-regulated

Firm	Cases	Firm	Cases
ALL Group Financial Services Inc.	1	Lakeshore Securities Inc.	1
Argosy Securities Inc.	1	Laurentian Bank Securities Inc.	1
Assante Capital Management Ltd.	5	MacDougall, MacDougall & MacTier Inc.	1
ATB Securities Inc.	4		
BMO InvestorLine Inc.	4	Mackie Research Capital Corporation	1
BMO Nesbitt Burns	25		
Burgeonvest Bick Securities Limited	4	Macquarie Private Wealth Inc.	5
		Manulife Securities Incorporated	4
Byron Capital Markets Ltd.	3	MD Management Inc.	1
Caldwell Securities Ltd.	1	Merrill Lynch Canada Inc.	1
Canaccord Genuity Corp.	17	National Bank Financial Inc.	24
CIBC Investor Services Inc.	6	PI Financial Corp	1
CIBC World Markets Inc.	9	Qtrade Securities Inc.	2
Credential Securities Inc.	1	Questrade, Inc.	6
Desjardins Securities Inc.	6	Raymond James Ltd.	6
Dundee Securities Ltd.	1	RBC Direct Investing	2
DWM Securities Inc.	13	RBC Dominion Securities Inc.	10
Edward Jones	7	Retire First Ltd.	1
FIN-XO Securities Inc.	1	Richardson GMP Limited	1
Global Maxfin Capital Inc.	1	Scotia Capital	17
Haywood Securities Inc.	1	TD Waterhouse Canada Inc.	37
HSBC Securities (Canada) Inc.	5	Union Securities Ltd.	1
Industrial Alliance Securities Inc.	2	Wellington West Capital Inc.	5
Interactive Brokers Canada Inc.	4	Wolverton Securities Ltd.	1
IPC Securities Corporation	1	Worldsource Securities Inc.	1
JitneyTrade Inc. Count	1	yourCFO Advisory Group Inc.	1
		TOTAL	255

STATISTICAL DATA

Investments – MFDA-regulated

Firm	Cases	Firm	Cases
Armstrong & Quaille Associates Inc.	4	MGI Financial Inc.	1
Assante Financial Management Ltd.	2	Monarch Wealth Corporation	1
BMO Investments Inc.	6	National Bank Securities Inc.	1
CIBC Securities Inc.	1	PFSL Investments Canada Ltd.	7
Desjardins Financial Security Investments Inc.	1	Portfolio Strategies Corporation	4
Dundee Private Investors Inc.	4	Professional Investments (Kingston) Inc.	1
Equity Associates Inc.	1	Qtrade Asset Management	1
Evangeline Securities Limited	1	Quadrus Investment Services Ltd.	2
FundEX Investments Inc.	10	Queensbury Strategies Inc.	1
Global Maxfin Investments Inc.	1	Royal Mutual Funds Inc.	10
GP Wealth Management Corporation	1	Scotia Securities Inc.	4
HSBC Investment Funds (Canada) Inc.	2	Sterling Mutuals Inc.	1
International Capital Management Inc.	1	Sun Life Financial Investment Services (Canada) Inc.	3
Investia Financial Services Incorporated	10	TD Investment Services Inc.	4
Investors Group Financial Services Inc.	49	TEN STAR Financial Inc.	2
IPC Investment Corporation	6	W.H. Stuart Mutuals Ltd.	1
Keybase Financial Group Inc.	2	WFG Securities of Canada	12
Manulife Securities Investment Services Inc.	2	Worldsource Financial Management Inc.	7
		TOTAL	167

Investments – CSA Registrant

Firm	Cases
HSBC Global Asset Management	1
TOTAL	1

Investments – Scholarship Plan Dealer

Firm	Cases
CST Consultants Inc.	3
Heritage Education Funds Inc.	6
Knowledge First Financial Inc.	8
TOTAL	17

Investments – Other

Firm	Cases
AGF Trust Company	1
Bank of Montreal	1
CIBC	1
Jameson Bank	1
National Bank of Canada	1
Servus Credit Union Ltd.	1
TOTAL	6

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