

APRIL 23, 2012 ISSUE

OBSI UPDATE – APRIL 23, 2012

This note is one in a series of newsletters updating you on what's happening at the Ombudsman for Banking Services and Investments (OBSI).

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1) Reality Check: The Globe and Mail Article on RBC and TD's Chosen Supplier

RBC and TD have withdrawn from OBSI for banking complaints, choosing to hire and pay for a private for-profit supplier whose job is to rule on the merits of their customer complaints and claims for compensation.

The president of their chosen supplier, ADRBO, is interviewed in today's *The Globe and Mail* and a number of assertions are reported. OBSI would like to take this opportunity to review the facts.

CONFLICT OF INTEREST

"We don't see [the business relationship] as a conflict..." said the president of ADRBO.

Reality

Most people would disagree. ADRBO is directly accountable to the banks that hire and pay it to rule on their market conduct. If they do not sufficiently please their client – the banks – they can be fired.

The dispute-resolution process that consumers access needs to be credible, independent, and impartial – not beholden to any one stakeholder group. Consumers may reasonably perceive that the independent investigation of consumer complaints cannot be credibly handled by a private for-profit supplier chosen and paid for by a bank. A service hired by the bank and that, consequently, has the bank as a client creates the perception, if not the reality, of a loss of critical independence. Any such service will know who it is they need to please in order to keep the business, and it's not the individual making the complaint.

A commenter on a recent newspaper piece noted that baseball teams are not allowed to hire the umpire they like best. Why should banks be any different?

HIRED BY THE BANKS, NOT CONSUMERS

The president of ADRBO is quoted as saying "if we were ever to do something that was not neutral, where we would be at all perceived as favouring anybody, we would be out of business."

Reality

ADRBO is hired by the banks and not consumers. If ADRBO favours the banks in their processes, decisions, funding model or otherwise, the consumer will have no opportunity to fire them.

It is not only the end decision that must be beyond reproach, but also the system itself, including: the manner in which consumers access the dispute resolution system, the mandate and role of the supplier as dictated by RBC and TD, the process by which they do their work, and the transparency and accountability of their operations. If the system is flawed from the outset even the best people cannot prevent the output from being similarly flawed.

TAKES LONGER TO INVESTIGATE COMPLAINTS

The Globe and Mail reports that "when TD pulled out of OBSI, bank officials said they had concerns about the length of time the independent ombudsman was taking to resolve files. RBC raised similar issues when it departed."

Reality

ADRBO's recently-released 2011 Annual Report states that "Section 16 of the ADRBO Terms of Reference requires ADRBO to make a recommendation on a complaint generally within 180 days of receiving it, unless it is prevented from doing so by unavailability of information. During the period under review, **the average time for completion of an investigation was 6.6 months**, with the shortest period being 3 months and the longest 11 months. Of the 32 final reports issued during the period under review, 13 were issued within that time frame, while 19 exceeded it" [emphasis added].

In the same period, OBSI completed 87.3% of banking case files within 180 days. The average length of time to complete an OBSI banking investigation was four months, with straightforward complaints taking only 54.7 days.

LACK OF INDEPENDENT FUNDING MODEL

The article states that ADRBO's president "argues his funding method is not materially different from OBSI's, since in both cases, the money for investigating and handling disputes ultimately comes from the banks."

Reality

Most people would disagree. OBSI's budget is determined through a global assessment of the funding required to meet our public interest mandate. As a non-profit organization, OBSI does not set its budget based on the profit motive. The budget-setting process is overseen by our independent Board of Directors and includes input from both industry and representatives of consumers and investors. With over 600 participating firms, no one firm can dictate the terms of the funding.

ADRBO is a private, for-profit company that charges RBC and TD based on private arrangements for a mandate much more limited than OBSI's. There is no independent Board oversight, just as there is no apparent stakeholder input into ADRBO's funding models, mandate or processes.

LACK OF TRANSPARENCY AND ACCOUNTABILITY

The article states that ADRBO "is willing to submit to regular independent audits of its case files to prove that its arbitration methods are responsible and fair."

Reality

OBSI already undergoes rigorous, independent audits on a regular basis. Rather than just stating that it is willing to do so as well, we encourage ADRBO to immediately and voluntarily engage with a regulator-approved expert in financial ombudservices to conduct an audit similar in scope to the one OBSI underwent in 2011.

Already, in addition to regular independent reviews, OBSI is held accountable through our [Framework for Collaboration with Financial Market Regulators](#), which contains standards in areas such as Independence, Accessibility, Transparency, Fairness, Scope, and Third Party Evaluation. We regularly meet and engage with all stakeholder groups, including regulators, government, industry, consumers and investors, referral organizations, and the general public. We are transparent about our policies, regularly consult on proposed changes to how we operate, and publish a significant amount of information and data to fulfill our public interest mandate. We are a non-profit organization whose management answers to an independent Board of Directors. Our budget and funding model are fully public.

ADRBO recently released their [2011 Annual Report](#). We invite stakeholders who look at their report to again read [OBSI's 2011 Annual Report](#) as well. In terms of transparency, breadth of information, consumer friendliness, plain language, data reporting, in our opinion there is simply no comparison with OBSI. On key measures, such as the time it takes to investigate a complaint, OBSI also outperforms ADRBO.

2) Media Coverage of OBSI

OBSI continues to be the subject of significant media coverage. The following are some links that may be of interest to stakeholders:

The Globe and Mail: [Bank ombudsman considers closing operations](#)

Postmedia: [NDP wants legislation for independent bank complaints system](#)

Financial Post: [The banks may miss the ombudsman](#)

BNN: [Streetwise video: The future of Canada's national bank ombudsman](#)

La Presse: [OSBI: l'arbitre des services financiers en mode survie](#)

Radio-Canada: [L'OSBI, l'arbitre des services financiers sera-t-il bientôt hors jeu?](#)

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