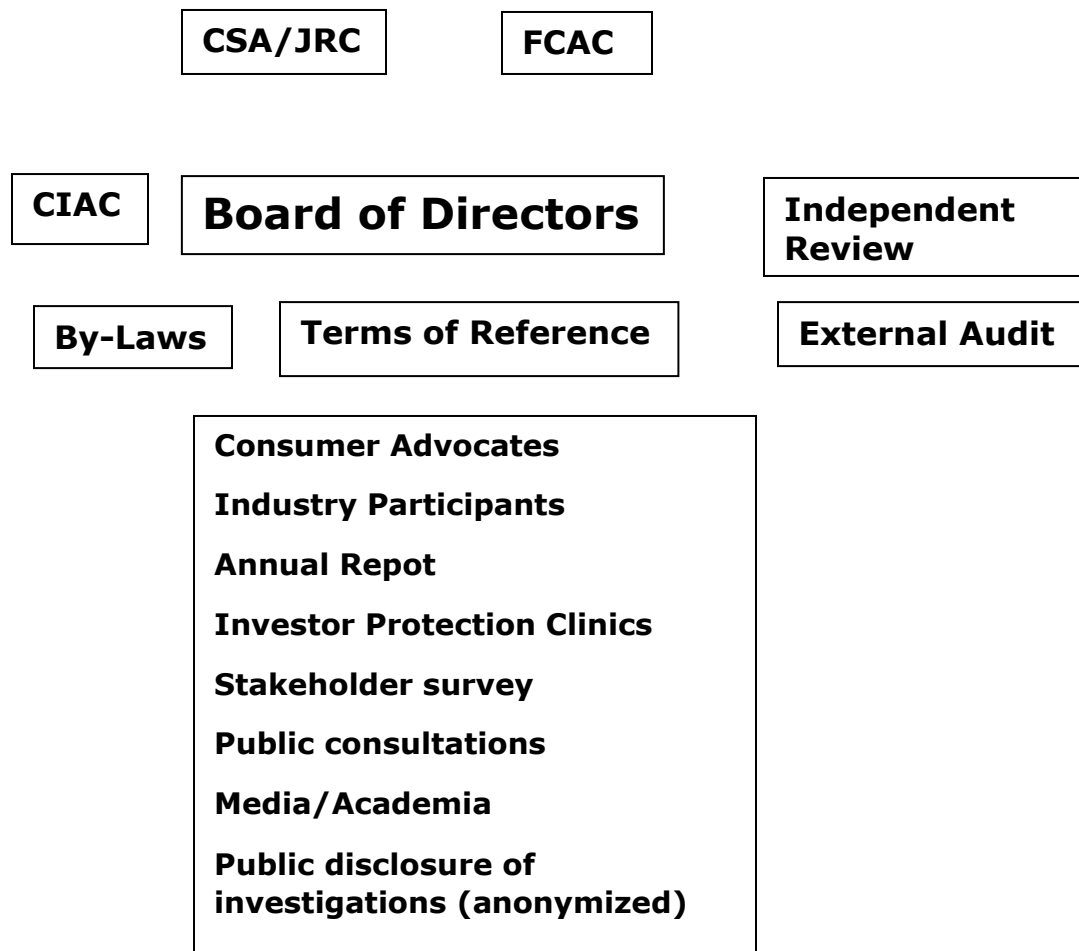


## Kenmar Comments on OBSI Governance Ecosystem



November 23, 2022

## Kenmar Associates

### **OBSI Governance Review – request for public comment**

[https://www.obsi.ca/en/index.aspx?gclid=CjwKCAjwh40bBhAzEiwAHzZYU08ZGez6\\_7JklnwjgqvnraTEmhsfC-Q45n9hwfvIQUboaz2vQ1UkhRoCk2IQAvD\\_BwE](https://www.obsi.ca/en/index.aspx?gclid=CjwKCAjwh40bBhAzEiwAHzZYU08ZGez6_7JklnwjgqvnraTEmhsfC-Q45n9hwfvIQUboaz2vQ1UkhRoCk2IQAvD_BwE)

Attention: Mark Wright, Director, Communications and Stakeholder Relations  
20 Queen Street West, Suite 2400, P.O. Box 8  
Toronto, ON M5H 3R3  
Fax: 1-888-422-2865  
Email: [publicaffairs@obsi.ca](mailto:publicaffairs@obsi.ca)

Kenmar appreciate the opportunity to comment on OBSI's consultation on governance. Kenmar Associates is an Ontario-based privately-funded organization focused on investor education via articles hosted at [www.canadianfundwatch.com](http://www.canadianfundwatch.com). Kenmar also publishes **the Fund OBSERVER** on a monthly basis discussing consumer protection issues primarily for retail investors. Kenmar are actively engaged with regulatory affairs. An affiliate, Kenmar Portfolio Analytics, assists, on a no-charge basis, abused consumers and/or their counsel in filing investor complaints and restitution claims.

### **Introduction**

In commenting, we have relied heavily on the excellent Comment letter submitted by CIAC in response to the Independent Review consultation. We also utilized material in Appendix by Mr. A. Teasdale *Systemic Fairness and Financial Data Analysis of Canadian and International External Complaint Bodies* <https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/2021-independent-evaluation/CIACH-Geller-OBSI-Submission.pdf> which is a wonderful overview of contemporary ombudsman standards. We have also utilized academic research and the June 13, 2022 *2021 Independent Review Report for Investments*.

The consultation is essentially responding to the select governance issues raised in the Puri Reports on Investments and on Banking. Dealing with the mechanics of Board structure, while necessary, is insufficient to enhance the overall governance regime. We are therefore taking the opportunity to comment more broadly on OBSI governance than that prescribed in the consultation paper.

While we are generally comfortable with the operational side of OBSI, we are concerned about how certain OBSI practices constrain capabilities, impair regulatory compliance/intent, allow the diversion of complainants away from OBSI and add to reputational risk. We appreciate that some issues relate to behind the scenes regulatory/political interventions, but appear to be OBSI originated. [In a very real sense, the intended readers of this Comment letter are govt. /regulators as much as the OBSI Board and staff.](#)

We must state for the record that we find OBSI operationally very **professional and fair** in their investigations of individual complaints. This has been confirmed by multiple Independent reviews. Many operational improvements have occurred over

## Kenmar Associates

the last few years including a good reduction in cycle time. Our relationship with OBSI staff and the Ombudsman is constructive and respectful.

This Board directed Consultation appears to be ill-timed given the large number of unknowns and roadblocks facing OBSI. Absent the articulation of a vision for OBSI that is broadly shared by all regulators and stakeholders, we consider the quest for an appropriate governance structure for OBSI akin to putting the cart before the horse. Nevertheless, we have decided to support OBSI, despite our reservations and limited resources, and file a Comment letter with suggestions and ideas.

We have provided a number of Appendices to support our arguments. These are:

1. APPENDIX I OBSI Board's behaviour, decisions, opaqueness, minimal consumer engagement and insensitivity to the needs of Main Street are discussed
2. APPENDIX II The role the CSA JRC and the missed opportunities for moving OBSI forward are discussed. An example would be the decade long procrastination on a binding decision mandate.
3. APPENDIX III Governance related comments made to Independent Reviewer
4. APPENDIX IV Items that need attention to support OBSI
5. APPENDIX V Our thoughts on Governance

We have also provided a list of References.

### **Background environment**

This consultation is taking place against a background of unusually dynamic and fluid change. For example:

- For the first time in years the OBSI is functioning without a CIAC in place
- Seniors are growing as a percentage of the population bringing in a new set of challenges for dispute resolvers
- The CFR is in full force which should ,at least in principle, cause a material reduction in investor complaints
- High inflation , a possible recession and a volatile securities market may lead to an increase in client complaints
- The CSA may grant OBSI a binding decision mandate with some sort of appeal mechanism with possibly, increased oversight and with uncertain impact over OBSI independence
- Industry trend towards fee-based accounts
- The CSA and FCAC may amend the systemic issue Protocol criteria
- Finance will select a single ECB for banking which may or may not be OBSI
- New securities such as cryptocurrency will add complexity to the investigation process
- More regulatory reforms re exempt market securities accredited investor definition could result in an increase in investor complaints
- Access equals delivery "disclosure" ,if implemented ,could impact complaint handling procedures and complaint volumes

## Kenmar Associates

- A proposed AMF complaint handling rule could mean that investigations will need to be tailored to a higher standard for Quebec originated complaints
- The form that Federal “binding arbitration” mandate for a ECB will take is unclear
- The investor compensation limit could be raised to \$500K in the investment sector (The compensation limit for banking complaints is unknown at this time (ADRBO has no compensation limit))
- NewSRO could amend the IIROC arbitration scheme in such a way that it impacts OBSI – we would not want to see OBSI displaced with a FINRA- like arbitration scheme
- The scrutiny of OBSI could increase if a binding mandate is granted and the compensation limit is raised.

OBSI sits on a foundation of Jell-O embedded in quicksand. A weak CSA complaint standard for registrants, an antiquated MOU, out-of-date SRO complaint handling rules, a dysfunctional Systemic Issues Protocol, a lack of a binding decision mandate, competition from ADRBO, bank complaint systems that are complex / confusing for retail financial consumers, a JRC that has failed to provide direction and leadership and a CSA that has procrastinated for years on key policy decisions.

**It is a testament to the talent and perseverance of the OBSI team that they manage to deliver great work despite all of these government/regulatory hurdles.** [We should never forget that the banking industry created OBSI's predecessor organisation in 1996 to avoid having government impose a statutory option on them. The banks conveniently forgot that and left to use their own "captive" supplier of ADR services...with the tacit approval of the Federal government. Judging from the Comment letters and other sources, it appears that the bank-owned investment Dealers have still not gotten comfortable with an independent dispute resolution agency]

The consumer satisfaction surveys, which support improved governance further suggest that more improvement is possible and appropriate. The necessary improvements will likely require investments and an increase in budget. On top of all this, most industry participants appear to be hostile (or ignorant), judging by behaviour, to even the existence of OBSI.

**All in all, challenging times ahead for OBSI and its Board of Directors.** If there ever was a time for a qualified Board and motivated CIAC, it would be now.

### **About the Ombudsman for Banking Services and Investments**

A fair and effective independent dispute resolution service is important for investor protection in Canada and is vital to the integrity and confidence of the capital markets. An effective financial Ombudsman can be a harbinger of change. OBSI is a cornerstone of financial consumer protection. Its governance is therefore of keen interest to consumer groups like ourselves.

## Kenmar Associates

**OBSI's Vision** Helping to ensure a fair, effective, and trusted Canadian financial services sector. [*We recommend changing this to "Helping the financial services sector serve clients in a way that is fair, accountable, transparent and respectful of their rights".*] If the playing field is not level it cannot effectively do these things. It can go some way to righting the imbalance, but it cannot go all the way. It cannot **ensure** anything at the moment.

**OBSI's Mission** We help resolve and reduce disputes between consumers and financial services firms by conducting fair and accessible investigations and by sharing our knowledge and expertise. [Again, with respect to low-balling, OBSI goes some way but cannot always give full effect]

**Guiding principles** OBSI's guiding principles include fairness, accessibility, impartiality, independence, integrity and professionalism; transparency is not specifically identified but with a few notable exceptions, transparency is good. **We also recommend adding the Adversarial principle:** *The parties must be allowed to present their viewpoint and to know the arguments and facts put forward by the other party, and know the contents of any reports from experts.*

**Governance** (per the CSA MOU): **OBSI's governance structure should provide for fair and meaningful representation on its Board of Directors and board committees of different stakeholders, promote accountability of the Ombudsman, and allow OBSI to manage conflicts of interest.**

In September, 2020 (more than 4 years after the Battell Report recommendation) the OBSI Board announced the appointment of Ms. W. Morris to the Board as its first director to be designated a Consumer Interest Director. There was no transparent nomination process underlying the appointment.

OBSI investigates complaints that clients have been unable to resolve with their bank or investment dealer by recommending a fair, unbiased outcome for all parties in the dispute. The use of OBSI is free to complainants.

OBSI addresses the power/information imbalance that individual complainants encounter when dealing with an increasingly complex industry and well-resourced financial services Firms. OBSI ensures that financial consumer complaints are investigated fairly without bias towards either party.

OBSI has a broad scope to make recommendations about a Participating Firm's accountability, including whether it appears to have been contrary to the law/regulations/rules; if it was unreasonable, unfair, oppressive or improperly discriminatory; or was based on a mistake of law /regulations.

The work of the OBSI is complementary to that of the courts. Unlike the courts, an Ombudsman can draw on the experience of dealing with multiple individual complaints to identify, analyze and report on systemic issues within the financial services industry.

# Kenmar Associates

Article 2 (3) of the MOU appears to be the basis for OBSI stating that it acts in the Public interest. Of course, without binding and systemic issues mandates, it has its hands tied behind its back in trying to achieve that objective. If it can only deal with the individual complaint and cannot address systemic issues, we argue that it cannot effectively, even wishfully, do so.

Considering the size of Canada’s financial service sector, OBSI consumer compensation is tiny with total compensation amounting to just \$2,163,840 in fiscal 2021. The incremental compensation due to OBSI engagement is likely lower as some Firms offered some compensation but it was rejected by the complainant. The annual expenses for OBSI in 2021 amounted to \$9.2 million. (RBC, an OBSI Participating Firm, reported a \$16.1-billion profit in 2021 and its CEO received \$15.5 million in direct compensation, a 25% increase from the previous year)

	Total	Average	Median	Lowest	Highest	# of case files
Banking services	\$259,998	\$2,185	\$675	\$50	\$20,006	120
Investments	\$1,903,842	\$8,896	\$2,520	\$50	\$156,635	215

The 2021 Independent review Report for Banking made 25 improvement recommendations, and the 2021 Investments Review Report made 22 improvement recommendations. A single 4 page melded response for Banking and Investments was issued. The Board has generally agreed to act on the recommendations or at least has stated they support the recommendations. The Board’s brief response was high level so most action plans or milestones are not known. The Board did not agree with providing enhanced information to complainants regarding limitation periods .Not all of the recommendations were addressed in the Board’s response letter. Surprisingly, the Board did agree to expose its EMD loss calculation methodology to a public consultation rather than the third party expert review approach recommended in the 2016 Independent review report. A number of the most important improvement recommendations require regulatory approval.

According to empirical research by Andrew Teasdale (CFA), Canada has fewer complaints that reach an external independent entity than in other countries: Canadian ombudsman complaints per capita are 2.3% and 5.6% of the UK’s and Australia’s per capita external complaints respectively, 6% of Norway’s and 12% of New Zealand’s. **We recommend that the Board obtain information to help explain the disparity in Ombudsman usage between Canada and other jurisdictions.**

In our view, a part of the role of the Ombudsman is to find ways to make sure that the Firm’s internal complaint procedures function more effectively: The better the industry functions, and the greater the effectiveness of these internal complaints procedures, the greater the trust in regulators and the financial services industry complaint handling practices.

## Kenmar Associates

The CFR regulations will have a profound impact on Dealer complaint handling and OBSI investigations. The CFRs are based on the concept that the interests of the client should come first in the client-registrant relationship, which includes complaint handling. The rules also require that Dealers address material conflicts-of-interest in the client's best interest. The resolution of a complaint is a perfect example of a conflict of interest. No longer will Dealers be able to rely on a balancing of interests in their analyses. The OBSI Board should ensure that OBSI investigation guides are adjusted and staff trained to apply CFR to Dealer complaint response letters. In this way, OBSI can fulfill its role as a thought leader in demonstrating how CFR is employed to establish fair client complaint investigations and decisions.

Despite the word "Ombudsman" appearing in its name, OBSI is not a financial ombudsman service, although it very much tries to be one. The 2016 Battell report made it very clear - OBSI's structure effectively "tilts the playing field in favour of firms". Under the current MOU and Systemic issue Protocol, OBSI is not obligated to take steps to prevent future recurrence of a problem- it is limited to investigating the individual complaint at hand. However, we do know per the MOU, that *the CSA consider effective dispute resolution through an **independent ombudservice** to be an important component of a well functioning investor protection policy framework.* [There is a terminology gap here that needs to be closed.](#)

### **OBSI's governance structure**

The existing governance structure appears to meet all the tick marks. The current governance structure includes having a majority of Community directors (with one being reserved for a Consumer interest director) and an independent Chair of the Board. Committees of the Board publish updates and information about their activities each year, including the attendance record for each Director. An Annual Report is published. The Board has a Code of Conduct including details about complying with OBSI's conflicts-of-interest rules and Bylaws. A majority of Community Directors is required for key independence matters including the hiring and firing of the Ombudsman, the setting of the Ombudsman's compensation, the budget process, the Terms of Reference and the nomination of Community Directors. The Board publishes a Strategic Plan. Yet, the behaviour of the Board is controversial at times, see APPENDIX I.

While the structure, nomination process and composition of a Board is very important, the key to effective governance is the individual Directors' skills, knowledge, commitment, engagement and understanding they bring to the Ombudsman's Board table. OBSI is not like a typical corporation. For one, it is non-profit. It is not a regulator but it is part of the regulatory system, a watchdog of sorts. Its stated vision is to create trust in financial services by ensuring complaints are handled fairly, promptly and efficiently. OBSI must act in the Public interest. [Careful thought must be given in designing a Director skills matrix system relevant to a 21st century financial ombudsman service.](#)

## Kenmar Associates

The main constraints on OBSI are external- the FCAC criteria for an ECB and CSA NI31-103 backed up by the 2015 CSA MOU. The JRC oversee OBSI wrt its compliance with the MOU- unless the CSA expand the mandate for OBSI to include binding decisions and systemic issue investigations, it cannot be a true ombudsman. It is currently functioning as, in our opinion, a professional complaint investigation service.

OBSI is not a legislated national financial ombudsman service. OBSI must satisfy two regulatory masters. The CSA could, in principle, provide alternatives to OBSI as was in fact recommended by an Ontario Task Force if OBSI did not acquire a binding mandate. In the banking sector, OBSI was undermined when the Federal Govt. created the opportunity for banks to select their own External Complaints Body (ECB). The choice was for-profit ADRBO who has ended up providing dispute resolution services for 4 of Canada's Big 6 Banks previously with OBSI. Finance is seeking to establish a single ECB (dispute resolution service, not ombudsman) for banking complaints although they may grant that ECB (hopefully OBSI) a binding decision mandate of some sort.

### Response to Consultation Questions

1. *Should OBSI's board continue to have designated board positions for current industry participants and/or consumer advocates, or transition to a system without such designated positions?*

The Puri Report suggests moving away from designated categorical criteria for Directors towards the use of a skills matrix. Under this approach, the SRO's and banking industry lobbyist would no longer provide nominations from their membership and the reserved Consumer interest Director slot would be eliminated. Kenmar fought for years for a reserved position for consumer Directors because a skills matrix system is not deemed sufficient to ensure robust retail consumer representation at the Board table. The Khoury and Battell reports recommended enhanced consumer representation on the Board. After all, the group most impacted by deficient Firm complaint handling is Main Street. **Kenmar recommend designated position(s) for Consumer Interest Director(s) be retained.**

If a skills matrix is used and reserved positions for consumers are no longer provided, a number of changes are mandatory. The first is the composition of the Board must change in favour of seasoned Community Directors. Secondly, Community Directors cannot be ex-industry or ex-regulator. Third, CIAC comments on the matrix should be sought and their opinion publicly disclosed. And finally, the Board approved skills matrix should be publicly disclosed. Under a skills matrix approach to Director selection with no designated consumer Director position, it is possible for every Director to be an industry or ex-industry participant. Kenmar consider this an unacceptable and unnecessary risk to consumer protection. **It is our firm conviction that OBSI's governance structure, as a financial services Ombudsman, must provide for meaningful representation (voice) on its Board of Directors of key stakeholders. The skills matrix approach must include, or be**



## Kenmar Associates

**supported by, other criteria to ensure all stakeholders are represented, including, in particular, financial consumers.**

We caution that certain “skills” are candidate-dependent. For example, an industry investigator (Director from Industry) may well be an expert at examining client complaints, but from an industry perspective. However, it is in their DNA to have an industry viewpoint. On the other hand, a Community Director may add to the Board’s complaint handling knowledge by understanding the challenges faced by a retail consumer in navigating the industry complaint system, the expectations of complainants and the issues experienced by complainants that have been exposed to bank/ Dealer complaint handling. **The matrix will require very careful preparation as it deals with the “skills” relevant to a financial ombudsman service with a Public interest mandate.** If the OBSI Board believes it lacks the subject matter expertise to properly define the matrix, it should consider outside professional consulting expertise on the matter - especially given the type of external pressure the OBSI is generally under.

The Puri Report recommends increased participation from select groups such as indigenous people, and membership in a visible minority community in addition to geographical representation. This goal may require a modest expansion of the Board. We’re not clear as to why geographical location is relevant to OBSI Director selection.

In our opinion, moving to a Board with no specific categorical requirements regarding the number of industry and Community directors could severely disadvantage retail consumer protection. **If in addition, the CIAC is extinguished, the retail consumer voice would, in our opinion, be placed in a perilous situation.** See *Beyond the Skills Matrix – the alchemy of Board composition and capability* <https://guidedfutures.com/beyond-the-skills-matrix-the-alchemy-of-board-composition-and-capability/>

We have all witnessed the agony suffered by qualified women wanting to become Directors of Corporations. Governments are starting to realize that skills matrices alone are inadequate to move the needle forward and are exploring other methods, such as targets, to drive change. (According to the most recent CSA Women on Boards Report, 61% of issuers adopted a formal policy relating to the representation of women on their Board). Canadian consumer advocates have been exposed to the same injustice. We draw the Board’s attention to the fact that NewSRO will have an Investor Office which will serve as the liaison between its IAP and staff of the New SRO to facilitate frequent and productive dialogue and to enhance investor protection.

We note also that ADRBO’s 4 person Board does not utilize Designated Directors from industry **but does have a Designated Consumer interests Director.** Last year, ADRBO, OBSI’s competitor for banking dispute resolution, established a Consumer interest Director to serve as a voice for consumers on the Board.

## Kenmar Associates

We strongly recommend that at least one Director has experience as a professional advisor. This could be a retired advisor, a finance professor, someone from the Office of the Public Guardian, an expert witness consultant or an individual from the AMF's credentialing body for financial planners.

### **Kenmar disagree with the elimination of a reserved position(s) for consumer Director(s).**

We do agree with the Puri Report that giving privileged nomination rights to the lobbyist CBA and the MFDA and IIROC is unfair to other registrants such as Portfolio Managers which may prevent their experiences being acquired by the Board. In addition, the optics of a lobbyist for the banking industry supplying Director nominees negatively impacts consumer perceptions of OBSI, especially since that sector's complaint handling practices are generally regarded as dysfunctional.

All Directors should effectively provide the insight and knowledge that would inform the others to facilitate good governance, not to overweight or influence representation to the detriment of one or the other interests. Without effective representation of knowledge and experience, good governance cannot be effectively achieved.

An open process for industry participant nominations would be more fair and would be perceived by consumers (and some reputable industry players) to be more appropriate. To be clear, we support this approach on the basis that the candidates should be selected as OBSI Directors based on their knowledge, skills, expertise, grass roots, experiences and demonstrated support for improved ombudsman services/complaint resolution processes, not as representatives of an industry sector. **A tick box approach to governance structure is not desirable- the key to successful governance is the skills, experience and engagement each individual Director brings to the Board.**

We have no definitive views on Director tenure but we definitely would not want to see any Director retained that has brought disrepute to OBSI or the industry. Governance activists view Director tenure as integral to issues of Board composition, succession planning, diversity, and, most of all, independence. Director tenure, or "board refreshment," appears to be a corporate governance flashpoint these days. We do not believe there should be an age constraint. Term limits have pros and cons. Some believe that the best way to achieve healthy Board turnover is not term limits or retirement ages but a robust Director evaluation process combined with an ongoing Director succession process. If we were pressed to identify a term limit, we'd say 8 years.

**Any Director from Industry employed by a Firm that has been Named and Shamed or has low-balled an OBSI recommendation is likely unsuitable as a Director given that retail consumer perceptions are particularly important for an independent financial ombudsman service.**

## Kenmar Associates

*2. If designated industry and consumer board positions are continued, what is the appropriate composition of OBSI's board with respect to the proportion of positions designated for those with specific industry or consumer expertise or who are independent?*

The current Board composition structure is not unacceptable although we'd prefer at least two Directors falling in the Consumer interest category. **All Community Directors should have evidenced relevant and substantive consumer and human rights engagement and must be free of past financial industry affiliation.** There should not be a two year entry ticket for ex-industry participants to become "Community Directors". There is no shortage of well qualified industry-independent Directors that could competently speak for Main Street concerns and act as competent Directors. The Consumer interests Director(s) should also be selected via an open application process, not by restricting applicants to CIAC members as appears to be the case historically.

We have previously provided OBSI with a specification for Consumer interests Directors. A good list of characteristics is also contained in *Response to the Framework for Reforming the Board of Directors of the Ombudsman for Banking Services and Investments* May 28, 2012 by the Consumers Council of Canada. The OBSI Board may find it helpful to consider the findings of the Council's 2006 research report "*Improving the Effectiveness of Consumer & Public Representatives On Delegated Administrative Authorities*" to identify principles of effective consumer representation. [https://www.consumerscouncil.com/wp-content/uploads/sites/19/2020/03/Improving\\_the\\_Effectiveness\\_of\\_Consumer\\_Rep\\_s\\_on\\_DAA\\_Boards.pdf](https://www.consumerscouncil.com/wp-content/uploads/sites/19/2020/03/Improving_the_Effectiveness_of_Consumer_Rep_s_on_DAA_Boards.pdf)

**The Directors from industry should have the perspective, the objectivity, engagement and the commitment to the wider public interest mandate of a financial ombudsman service.** Appropriate training should be supplied as necessary and it should be integrated into the skills matrix used by OBSI in its Board member selection process along with considerations of diversity/inclusion and required expertise in industry best practices and applicable regulations.

*3. If designated industry and consumer board positions are continued, should Industry Director positions continue to be nominated by specific industry organizations, or should OBSI transition to a system of more general nomination of current industry participants?*

**Director positions from Industry should not continue to be nominated by specific industry or other organizations.** We support open nominations and/or the use of a Search Firm if necessary across all CSA registration categories. An understanding of the role of an ombudsman is essential and obviously the normal skills of being a Director of a non-profit corporation such as accounting, fiduciary/legal obligations, familiarization of basic financial industry regulations and strategic planning. Specific Director skills and knowledge of Root Cause Analysis (RCA), Ombudsman best practices/standards, complaint handling and corrective

## Kenmar Associates

action systems, behavioural finance, portfolio construction, data analytics and IT are generally valued highly.

*4. If designated industry and consumer board positions are continued, how should Consumer Interest Director nominees be identified?*

Community and Consumer Interest Director candidates can be openly solicited, the reservoir of prior OSC IAP members can be tapped or Consumer groups like Prosper Canada, FAIR Canada, CARP, Option Consommateurs, the Consumer Council of Canada or ourselves can be approached for suggested candidates. Industry candidates can apply by open solicitation and/or persons identified via suggestions from the CSA, FCAC or NewSRO. CIAC members should be permitted to apply for Director positions.

*5. Beyond designated board representation, how should OBSI ensure that the interests and expertise of industry and consumer stakeholders are incorporated into the organization's decision-making process?*

A well-conceived, tailored skills matrix can be the basis for this purpose. The core skills include a basic knowledge of applicable laws , an understanding of complaint investigation methodologies, financial / accounting competence, knowledge of consumer issues, understanding of the role of a financial ombudsman service, an understanding of the financial advisory process/ CFR and strategic planning . New Directors should receive a briefing on their role as Directors based on OBSI's vision/mission statement and undertakings with regulators.

There are few well-resourced financial industry consumer groups in Canada. Most are overloaded with the constant flow of consultations and other consumer protection issues. Complaint handling is one of many issues facing the retail consumer. [This is why we support a standing CIAC team that is laser focussed on the issue of financial consumer complaint handling and modern financial Ombudsman services, continuously interacts with staff and meet with the Board at least twice per year.](#) Effective complaint handling is a strategically important component of consumer protection operating in a relatively adversarial environment. CIAC can help identify the need for regulatory or operational changes beyond that related to complaint handling. For example changes to KYC, risk profiling, forms design, disclosure documents or interaction with seniors/vulnerable clients. The OBSI Board could then raise the issues with the JRC to initiate regulatory system improvements. **[Sustained contact with Staff and the Board is essential to keep the consumer voice alive and well within OBSI.](#)**

Periodic "special event" in person Roundtables and focus groups can be helpful adjuncts to a well-functioning CIAC but they are not a replacement for a dedicated team like a CIAC. A well run Roundtable ( in person) can inspire more fulsome engagement, cooperation and support from the multiple regulators and stakeholder groups that need to be invested in a more effective and relevant OBSI.

## Kenmar Associates

The CSA has wisely concluded it needs an IAP as have the OSC and the architects of the NewSRO in addition to occasional Roundtables. The Consumer Protection Advisory Committee (CPAC) provides guidance and advice to the FCAC Commissioner in carrying out the Agency's financial consumer protection mandate. We can see no logic in the OBSI Board exterminating the CIAC- it can only raise consumer eyebrows and increase distrust. **We strongly recommend the CIAC be taken off suspension status, operationalized without delay and embedded into the OBSI governance infrastructure.**

CIAC members should be selected via an open and transparent application process, not by appointment by OBSI's Governance and HR committee.

That being said, we do not disagree with the Puri report that the role of CIAC be better defined. We do not agree that the Statement of Expectations should expressly state that OBSI's Board is not required to accept a recommendation made by CIAC –that is insulting to the intelligence of CIAC members. The CIAC should be regarded as the voice of the consumer to Directors **and staff**. The CIAC should have access to a research budget, be independent and have the right to have its work made public in the Public interest. They should be treated with respect and fairly compensated for their contribution including any travel related expenses .The CSA model for an IAP would be a good starting point. Directors from industry should be trained in how to relate to a consumer advisory group for maximum effectiveness. The Puri Report recommendations should be implemented without delay.

Focus groups can be used for clearly defined issues such as validating a new form or approach. A focus group was successfully used by the OSC in designing Fund Facts disclosure .A focus group may not be effective in examining a policy change. Cost may be a factor as Focus groups require careful design and professional facilitation. See <https://smallbusiness.chron.com/advantages-disadvantages-focus-group-784.html>.

We don't see Town Halls as particularly effective for meeting OBSI's decision-making needs. We recommend stakeholder surveys but OBSI must agree to report back to participants the results of the analysis and articulate time-phased actions plans to address the issues raised. **We recommend that periodic independent stakeholder surveys be conducted as an integral part of OBSI's governance regime.**

Independent empirical research can be useful in obtain the voice of Main Street such as polling. Research can also be used to assess certain aspects of the complaint process. For example the OSC IAP launched research into industry client risk profiling practices which certainly opened the eyes of regulators. The OSC has commissioned empirical research on embedded commissions which ultimately resulted in the DSC ban. The downside of empirical research is that it needs access to information and the costs can be substantial.

## Kenmar Associates

OBSI should consider partnering with Investor Protection Clinics to ensure that the interests, expertise and experience of these clinics are incorporated into the organization's decision-making process.

A direct way for OBSI to validate that its processes are responsibly supporting OBSI decision making is to subcontract a policy, process or method to an independent credible, recognized third party expert for examination and testing. This could be useful, say in the case of the EMD controversy on loss calculation.

Any strategy for engaging consumers has itself to be multi-faceted and vary with the purpose for which involvement is sought.

### Bottom Line

The modern Ombudsman must be prepared to accept the need to tackle the issues *revealed* by the cases head on with an explicit intention to unearth and expose the source of the problem, and to become the promoter of better governance arrangements capable of eradicating the root causes of the complaints. This is not today's OBSI modus operandi primarily due to CSA and FCAC constraints. Until the constraints are removed, OBSI is powerless to evolve towards the higher Ombudsman standards in other jurisdictions.

OBSI is the tail end of a complaint handling system that is failing Canadian financial consumers. **We urge the CSA/ FCAC to effect a complete systems level review of financial consumer complaint handling in Canada.** Simply rearranging the deckchairs on the deck of a Titanic is not the way forward.

Although we have responded to the consultation, we believe the consultation is somewhat premature, focussed primarily on the latest Independent Review. We believe this governance review would be more robust if we had had clarification on:

1. The Fed's promise to establish a single dispute resolution body for banking
2. The CSA's commitment to give OBSI binding authority; and
3. Any clarification of OBSI's public interest/systemic risk remit

Kenmar believe that corporate purpose and principles needs to inform governance structure.

As an independent entity, OBSI's current mandate is to ensure that complainants are treated fairly, promote fairness and accountability, and via data analysis identify and report systemic issues for regulatory action. OBSI can help provide some balance to the complainant-Firm relationship in order to correct the imbalance of power, knowledge and resources between Firms and consumers.

Through effective governance, stewardship, risk management, planning and strong regulator relationships, the OBSI. Board can ensure that OBSI has the resources, tools, skills, and support to meet new challenges to fulfill its mandate.

## Kenmar Associates

A Director skills matrix is useful tool to help ensure that a Board has, in aggregate, all the skills necessary to provide effective governance of an entity. **Designated positions and a skills matrix are not mutually exclusive.** They work together to ensure certain stakeholder group experiences are represented on the Board. In the case of an Ombudsman, it would be foolhardy to construct a Board without consumer(s) representation at the Board table to relate the trials and tribulations faced by Main Street consumers in interacting with the financial services industry. Societal expectations may also be a factor in Director selection to ensure gender equality or senior or visible minority representation. **The right combination of Director skills and representation is what will make for an effective OBSI Board.**

The result of certain Board actions and inactions (see APPENDIX I) has, in our opinion, been an OBSI that has lost significant complainant flow and the associated complaint data, provided incomplete disclosures, unintentionally undermined regulatory intent and not realized its full potential as a financial ombudsman service. **Despite these shortcomings, we have no doubts about OBSI staff's ability to investigate individual complaints fairly and professionally.**

We have been staunch supporters of OBSI, but over the years a number of Red flags have appeared. It is our expectation that this consultation will give due consideration to the governance related issues we have raised.

We have provided numerous ideas for OBSI to engage with Main Street but a CIAC is essential. Beyond identifying complaint system deficiencies, CIAC can bring to the Board's attention gaps in regulation that give rise to complaints for communication to and action by regulators. **We urge the OBSI to reactivate CIAC ASAP with due regard to the Puri Report and the ideas we have provided.**

**We recommend that the CSA/JRC, OBSI and CIAC (and others as appropriate) meet to review the 2015 MOU , the JRC Terms of Reference and the Systemic issues Protocol in the light of the many changes that have occurred in the last 7 years, the availability of new information/ research and changing societal expectations of a modern financial ombudsman service.**

The CSA, FCAC and OBSI will need to work together to make OBSI a world class financial ombudsman service. OBSI cannot do this on its own. We understand that a strong OBSI, one that creates extra work for the regulator or shines a light on things that make the regulators look bad, may not be on the CSA's (or FCAC) wish list, but it is the right thing to do for Canadians. **If regulators do not want a robust financial Ombudsman service for Canadians they should so state.** This will save all stakeholders a lot of time and resources.

The CSA MOU must ensure that OBSI is independent, not only from industry influence, but also from the CSA (and FCAC) itself. OBSI findings can sometimes point to regulator failings so the MOU should explicitly give OBSI the mandate to

## Kenmar Associates

report regulatory gaps or shortfalls if the CSA wish OBSI to function as an independent financial Ombudsman service.

With only a few weeks before NewSRO is formed on Jan.1, the OBSI Board should work with the CSA to formally amend the Director nomination process so that NewSRO can nominate 2 Directors (assuming that is what the CSA and OBSI Board desire). We expect the SRO nominated Directors already in place will be retained until their terms expire.

Before these contemplated Board structure changes can be implemented by OBSI, the CSA MOU will need to be amended and Finance/ FCAC concurrence obtained.

Because this consultation is not a general consultation on OBSI's governance, we fully expect another consultation on governance sometime in 2023 as, finally, regulatory policy decisions are made.

Permission is granted for public posting of this letter.

Please feel free to contact us should there be any questions regarding our Comment letter.

Sincerely,  
Ken Kivenko P.Eng.  
President, Kenmar Associates

### **APPENDIX I: Examples of OBSI Board actions raising consumer eyebrows**

Here are a few examples we have encountered over the years:

- OBSI suddenly stopped posting Board meeting minutes without any prior communication or rationale
- OBSI unilaterally gave up its mandate to investigate systemic issues ( this may have been under CSA direction)
- OBSI gave up its mandate to investigate investment portfolios containing Segregated funds ( this may have been due to external forces)
- OBSI have accepted unregulated internal bank "ombudsman" as legitimate proxies for investment dealer response letters
- OBSI has not publicly disclosed the details of low- ball offers (as first revealed in the 2016 Battell Report and in subsequent JRC Annual Reports).
- One Board Director was a senior executive of a Dealer that had rejected a OBSI recommendation and the Dealer was publicly Named and Shamed
- The Board continue to accept a two year cooling off period for ex-industry people filling in as so-called " Community" Directors
- The Board has banned CIAC reports from public disclosure (but have permitted CIAC to submit a comment letter on its consultations)

Here are a few recent examples of Board behaviour that attracts our attention:



## Kenmar Associates

OBSI's Terms of Reference, Bank Act regulation, and its MOU with the CSA require OBSI to be independently evaluated at least every five years (previously 3 years). The purpose of these independent reviews is to determine whether OBSI is fulfilling its regulatory obligations and operating effectively in accordance with recognized best practices for financial services ombudsmen. The last review was May, 2016 making the due date for the next Review, May 2021. The Report's release was off by more than a year putting OBSI offside with its contractual / legal obligations.

Another example of a governance shortfall relates to the CIAC. The CIAC has provided excellent support to the Board and been publicly recognized for their fine work. Its members were among Canada's most respected voices for Main Street. Yet all have resigned. We only found out about their departure via a posting on the Consumer Council of Canada website. The only public comment from the Board is that the CIAC has been suspended. To the extent that a Board has a fiduciary duty to act in the Best interests of OBSI, it is to that extent we hold the Board accountable for the loss of this treasure trove of intellect, knowledge and engagement related to consumer protection.

On November 4, 2021 the OBSI selected review team requested that written responses be submitted by December 2, 2021. This ultra-short response time was entirely unreasonable given the complexity of the work required to prepare an informed Comment letter [It was only In October 2021, that the OBSI Board appointed Professor Poonam Puri to lead both independent evaluations ( banking and investments mandates).] We formally protested and the due date was extended to January 31, 2022 thanks to the Ombudsman's intervention. How could the Board have believed that the retail consumer advocacy community would have the resources necessary to provide comprehensive comments in 28 calendar days? The Kenmar team took this as a show of disrespect or an ignorance of the resources available to a key stakeholder- Main Street. Either way, this behaviour is yet another indication that the Board Directors needs more sensitivity training and/or should be refreshed. Provoking and aggravating Main Street is not good governance. Given that the Board expected to conclude with final evaluation reports delivered to OBSI by late March 2022, we suspect that deadline was also missed given the actual dates the Review reports were publicly released by the Board.

Finally, we relate the story surrounding systemic issues. From the date it was issued, we informed the OBSI Board that the Systemic issue Protocol was dysfunctional, a black hole. We deemed it unfit for purpose- the purpose being to compensate all victims impacted by the systemic issue. The Protocol varied considerably from other jurisdictions. We also asked how the Board had virtually no banking or investment sector systemic issues to report. In Feb. 2020, the FCAC also questioned OBSI's under-reporting of systemic issues compared to other jurisdictions. The Board did not react so it came as no surprise that the Puri independent review Report released on June 13, 2022 reconfirmed the reporting system deficiencies. The Report recommended a number of important changes to improve the reporting. As of the date of this submission, we see no evidence of Board initiated action being taken. (While we believe that OBSI could do a better

## Kenmar Associates

job reporting systemic issues, we concede that until regulators more explicitly mandate and more actively support the identification and public disclosure of systemic issues, it will be difficult for OBSI to satisfy Public expectations)

### **APPENDIX II: The Joint Regulators Committee (JRC)**

The role of the JRC is to facilitate a holistic approach to information sharing and monitoring of the dispute resolution process with an overall view to promoting investor protection and confidence in the external dispute resolution system. As such, it forms part of the governance regime to ensure OBSI meets the terms and conditions of the MOU. It attempts to accomplish this by periodic meetings with staff and the Board of OBSI. The JRC issues an Annual Report of its activities but it does not respond to public commentary related to issues impacting OBSI. The JRC is responsible for monitoring whether OBSI complies with the applicable approval conditions. If it believes that OBSI is not doing so, it can direct OBSI to make the necessary changes, or ultimately recommend to the CSA that complaint handling approval is removed. The JRC does not employ compliance sweeps.

As noted by CIAC *"The anodyne annual reviews performed by the JRC do not provide many insights. Typically, they simply confirm that OBSI is meeting the standards established by provincial regulators and then provide the assurance that their efforts to grant OBSI binding authority are active and ongoing"*. **Kenmar recommend that the JRC consider enhancing its monitoring of OBSI by reducing the Independent review cycle to 3 years and opening up a Communications channel with consumer groups.** We feel this will be critical especially if OBSI is granted binding decision authority, given some systemic issue investigation rights and the compensation limit is increased 43% to \$500K and indexed.

As an aside, we believe that the JRC would be more effective and OBSI better served if the FCAC were part of the JRC. This however would require collaboration between the Feds and provincial regulators.

### **APPENDIX III: Governance related Comments made to Independent Reviewer**

In reviewing consumer comments submitted as a result of the Independent review consultation, we note the following comments re governance:

*CIAC: " Among stakeholders, industry and industry alum continue to enjoy relatively high representation on the Board while other stakeholder groups, including consumers, investors and other vulnerable communities, remain under-represented or not represented at all."*

CARP, which represents 320,000 members, recommended a reserved Director position for a senior's voice on the Board. (64 % of investor complainants are age 50 or older)

## Kenmar Associates

Andrew Teasdale: *"The procedures and the structures of good governance are likely in place within the OBSI, but the content, the perspective, the objectivity and the commitment to the wider public interest mandate of an ombudsman are not. If the role of the OBSI is to dispassionately address individual complaints with no wider perspective, governance structures are likely fit for purpose."*

OSC IAP : *"The current provision for one member of OBSI's Board to be selected to function as a "consumer interest" director does not, in our view, sufficiently offset the effect of other directors being nominees of IIROC, the MFDA and the Canadian Bankers Association. A more balanced and appropriate Board dynamic will be achieved only if all the independent directors are required to possess a deep understanding of consumer perspectives and investor protection issues. This understanding should be reinforced through annual training on those issues and perspectives for all OBSI directors, including the industry nominees, and it should be integrated into the skills matrix used by OBSI in its Board selection process along with considerations of inclusion, diversity, required expertise in industry operations, and geographic representation.."*

Judith Andrew: *"The OBSI Board of Directors, with only one 'consumer interest' director, two big banks alternately holding the CBA seat, and the rest generally in the financial professional category, not specifically representative of particular stakeholder groups, which is a recipe for making a Board ineffectual."*

FAIR: *"In our view, the current governance structure appears to be working well and we would not recommend tinkering with it. The structure includes having a majority of community directors (with one being reserved for a consumer interest director), a minority of industry directors, and an independent Chair of the Board. "*

Kenmar Associates: *"Directors with consumer protection experience will bring the voice of the consumer into the OBSI Boardroom. We recommend that the Board be overhauled with 75% of Directors being industry-independent with no prior history of industry employment or servicing. Three of the independent Directors (aka Community Directors) should have a consumer focus track record ("street creds" and passion). The Consumer interest Directors should be (a) capable of articulating the perspectives, needs and concerns of financial consumers and (b) be individuals in whom consumers and consumer advocacy organizations have trust/confidence. Given the large number of complaints regarding financial advice and suitability, we suggest one Industry (or independent) Director be a credentialed professional planner or adviser."*

While there is a variation in recommendations between the consumer recommendations, none recommended eliminating the Designated position for a Consumer interest Director. The Khoury and Battell Independent Review Reports recommended enhanced consumer Board representation. It therefore is disturbing to us that the OBSI Board even contemplates a Board without reserved consumer interest Director(s) representation or a CIAC [The Puri Report did put forward the idea of eliminating designated Board positions for Directors (including the Consumer interests Director) and even eliminating CIAC but we would have

## Kenmar Associates

anticipated that the Board for a financial Ombudsman would have discarded such a radical idea given the absence of even a shred of any investor/consumer support or benefit for consumers]

### **APPENDIX IV: Items that need attention to support OBSI**

**1 Provide OBSI with a binding decision mandate** The indecision has been going on for years. It is our understanding that the CSA is contemplating action. **Kenmar encourage the CSA to step on the accelerator pedal.** See **JRC to look at expanding OBSI's powers.** March 23, **2017** Investment Executive <https://www.investmentexecutive.com/news/from-the-regulators/jrc-to-look-at-expanding-obsis-powers/>. The CSA/JRC has actually been "looking" for over a decade. **ALL major advocacy groups in Canada support a binding mandate.** Note that 3 Independent Review reports have recommended a binding decision mandate, one dating back to the **2011 Navigator report!**

**2 Deal with EMD loss calculation methodology** OBSI has reported for years that its method of calculating process is not accepted by EMD dealers and has duly informed the JRC. An Ontario Task Force was so taken by the continuing disagreement it recommended a designated EMD Director on the OBSI Board. **It's time for the CSA to act on this systemic issue rather than have OBSI run a consultation on the issue.** The Battell Report recommended that OBSI send out samples of their loss calculation approach to independent experts. If this had been done for EMD complaints, we expect the controversy would have ended year ago.

**3 Update and modernize NI31 103 National Instrument 31-103 complaint handling provisions** (See our Comment letter to Puri consultation). This National Instrument is embarrassingly light on Dealer Complaint handling policy/rules and regulatory expectations compared to other jurisdictions. We have formally raised this issue with the CSA and JRC numerous times over the past 3 years. **Kenmar recommend that the CSA Dealer complaint handling policy/ rules be elevated to international standards as a TOP priority.** Elevated standards will help reduce the number of complaints and improve investor outcomes. At the same time, the reduced complaint flow to OBSI will reduce their operating costs and the cost to Participating Firms and could, as a by-product, increase trust in the financial services industry. The AMF is working on improving its rules for Dealer complaint handling. IIROC also has consulted on modernizing its complaint handling rules to align with CFR. [The FCAC has tightened up on bank complaint handling and **cut the bank complaint cycle time to 56 calendar days from 90.**]

The CSA may find the FSRA Complaints Resolution: Policy Framework and Best Practices: FSRAO <https://www.fsrao.ca/media/5221/download> useful.

We provide two examples of international complaint handling Guides as benchmarks for CSA consideration:

## Kenmar Associates

- Australian ASIC Guide Internal Dispute resolution  
<https://download.asic.gov.au/media/3olo5aq5/rg271-published-2-september-2021.pdf>
- DISP 1.3 Complaints handling rules – UK FCA Handbook  
<https://www.handbook.fca.org.uk/handbook/DISP/1/3.html>

**NOTE: Per OBSI's 2021 Annual Report, a whopping 38% (215 of 567 cases) ended with monetary compensation.** When nearly 4 in 10 complaints against Dealers are overturned by OBSI, this suggests to us that Dealer complaint handling is not robust. Modern CSA complaint handling rules, effectively monitored, should reduce this ratio.

**4 Update the Systemic Issue Protocol** In our Comment letter we listed all the deficiencies with the existing Protocol. The Puri Report provides some useful ideas for patching up the system. These including redefining systemic issue and strengthening communications with the JRC. In addition Puri recommends that: *OBSI should set out in its Annual Report the number of potential systemic issues it has identified in the previous year, both in respect of securities and banking complaints, and provide a generic description of the type of issue identified. OBSI should work with the JRC or the CSA Designate to issue a report to the public on what steps have been taken with respect to the potential systemic issues identified by OBSI. We agree with these recommendations but the CSA and NewSRO must fulfill their role in the Protocol dynamics. The end result must be that all consumers harmed by the systemic issue will be compensated or otherwise made whole.*

**5 Standardize the Loss calculation methodology** The CSA should formally agree that the purpose of dispute resolution is to make client's whole. The opportunity- loss methodology should be adopted as the national standard methodology for financial loss calculations by Registered Dealers (and banks).

**6 Adopt Root Cause Analysis as the standard for complaint investigations** See Root Cause Analysis: Solve Problems by Eliminating Causes –ASQ <https://asq.org/training/root-cause-analysis--solve-problems-by-eliminating-causes-rcaqwbt> We are of the firm conviction this will lead to better quality investigations , a reduction in the number of complaints and increased client satisfaction and trust in the financial service industry. A modest investment in investigator training will pay big dividends for industry.

**7 Reduce the independent review schedule to three years** Given the rapid changes impacting the financial services industry, Kenmar recommend that the MOU be amended by the CSA to a minimum interval of three years for Independent Reviews.

### **APPENDIX V: Our thoughts on Governance**

Good governance means that the processes of disclosure and transparency are followed so as to provide regulators and stakeholders as well as the general public with precise and accurate information about the financial, operational and other

## Kenmar Associates

aspects of the entity. Governance is a term that means many things but the bottom line for good governance for OBSI is the dual aim of pursuing its vision/mission / mandate and doing so in a transparent and accountable manner.

Governance involves ensuring that the organization is managed well, meaning that the processes, procedures and policies are implemented according to the principles of fairness, transparency and accountability. Good governance requires an organisation to identify, engage with and understand stakeholder perspectives on key issues, then reflect on how they should be addressed in policy-making. Done well, it strengthens an organisation and ensures its long-term success -to the benefit of stakeholders. Done badly, it can increase OBSI's operational risk profile and lead to major reputational damage.

To be truly independent, OBSI must be, and must be seen to be, free to conduct reviews, make recommendations and be unfettered in its decisions by the complaint system it oversees, including its regulators. This of course is not the case under the MOU, Systemic Issue Protocol or JRC oversight criteria.

The Board of Directors duty is to ensure that OBSI operates in such a way that it complies with the conditions placed on it as part its approval to operate as an ECB for banking and an authorized dispute resolver entity for the CSA, complies with laws related to non-profits, ensures the entity is well managed and sets the strategic direction of OBSI.

Good governance should help reinforce confidence. not only in OBSI, but in the regulatory system. **A representative Board should act in the overarching Public interest associated with best practices for a financial services ombudsman.**

The OBSI Board's Strategic Plan hits all the right topics such as increasing awareness, continuous improvement, thought leadership and proposing changes to increase consumer trust in financial services. But high sounding narrative must be met with actual plans, deadlines, metrics, milestones and timelines. **The Board should provide more specificity on how it will accomplish the aspirational goals it has set.**

An industry-funded "ombudsman" scheme, in particular one without binding powers over its Participating Firms, can only operate with the support of its constituent stakeholders. *Absent a clear regulatory signal to the contrary, industry's continued criticism and pressure may ultimately leave OBSI with nowhere to go but to make a series of backward-stepping compromises.*

When selecting OBSI Directors, this question must be asked: **Will the nominee bring the knowledge, insights and discussions the Board most needs?**

The Board should also commit to clarity and integrity of OBSI's role. How the entity represents itself is important. The OBSI Board does not appear to engage in this

## Kenmar Associates

important function. In our view, it has not succeeded in fully defining its Public interest mandate.

### REFERENCES

**The Handbook of Governance**, Richard Leblanc Editor, Wiley, 2016

**Code of Conduct for OBSI Directors**

<https://www.obsi.ca/en/about-us/resources/Documents/Ombudsman-for-banking-services-and-investments-Board-of-Directors-Code-of-Conduct-.pdf>

**ISO standard 10003 Quality management - Customer satisfaction – Guidelines for dispute resolution external to organizations**

**A Practitioner’s Guide to Evaluating Ombudsman Offices**

[https://www.theioi.org/downloads/d7kvj/IOI%20Canada\\_Occasional%20Paper%2083\\_Frank%20Fowlie\\_A%20Practitioner%27s%20Guide%20to%20Evaluating%20Ombudsman%20Offices.pdf](https://www.theioi.org/downloads/d7kvj/IOI%20Canada_Occasional%20Paper%2083_Frank%20Fowlie_A%20Practitioner%27s%20Guide%20to%20Evaluating%20Ombudsman%20Offices.pdf)

**CIAC Response to OBSI independent Review consultation** January 2022

<https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/2021-independent-evaluation/CIACH-Geller-OBSI-Submission.pdf>

**ONSI Strategic Plan 2022-2026**

<https://www.obsi.ca/en/about-us/resources/Documents/OBSI-Strategic-Plan-2022-2026-EN.pdf>

**The Case for a Permanent and Independent Ombudsman Office:** Canada.ca

<https://www.canada.ca/en/ombudsman-national-defence-forces/reports-news-statistics/ombudsman-letters/archives/minister-permanent-independent-ombudsman-response-20170330.html>

**2021 JRC Annual Report**

<https://mfda.ca/policy-and-regulation/bulletins/bulletin0918-m/>

**Response to the Framework for Reforming the Board of Directors of the Ombudsman for Banking Services and Investments:** Consumers Council of Canada

[https://www.obsi.ca/uploads/26/Doc\\_636445205527299317.pdf?ts=637524650309974264](https://www.obsi.ca/uploads/26/Doc_636445205527299317.pdf?ts=637524650309974264)

**Guide to principles of good governance:** Ombudsman Association

<https://www.ombudsmanassociation.org/best-practice-and-publications/guide-principles-good-governance>

**Critics take aim at TD Directors on OBSI Board**

<https://financialpost.com/news/fp-street/critics-take-aim-at-td-directors-on-obsi>

## Kenmar Associates

### **Board skills - Building the Board**

<https://www.effectivegovernance.com.au/page/knowledge-centre/news-articles/board-skills-building-the-right-board>

### **Beyond the Skills Matrix: Selecting Your Next Board Candidates**

<https://www.diligent.com/insights/board-succession-planning/beyond-the-skills-matrix-selecting-your-next-board-candidates/>

### **BEST PRACTICES” IN BOARD MATRICES:** New York City Comptroller

<https://comptroller.nyc.gov/wp-content/uploads/2018/08/NYC-Comptrollers-Office-Matrices-Compendium-8-2018-FINAL.pdf?elqTrackId=6ea19e263a0e413c803628cf05d580ba&elq=fc86640bc0924c54836ac048c3887b29&elqaid=1482&elqat=1&elqCampaignId=1066>

### **Director Skills: Diversity of Thought and Experience in the Boardroom**

<https://corpgov.law.harvard.edu/2018/10/10/director-skills-diversity-of-thought-and-experience-in-the-boardroom/>

### **Involving Consumers in Securities Regulation** J. Black LSE 2006

<https://www.lse.ac.uk/law/people/academic-staff/julia-black/Documents/black18.pdf>

### **Industry ombudsman and access to justice: A case study of the Canadian financial, telecoms and travel sectors** Marina Pavlovic. UOttawa

[http://www.ombudsmanforum.ca/en/wp-content/uploads/2021/03/Pavlovic.FCO\\_FinalReport.small\\_.pdf](http://www.ombudsmanforum.ca/en/wp-content/uploads/2021/03/Pavlovic.FCO_FinalReport.small_.pdf)

### **Balance and Values – The Many Roles of an Ombudsman**

<http://www.ombudsmanforum.ca/en/?p=561>

### **Resolving disputes between consumers and financial businesses:**

#### **Fundamentals for a financial Ombudsman: World Bank**

<https://documents1.worldbank.org/curated/en/169791468233091885/pdf/699160v10ESWOP0en0Vol10Fundamentals.pdf>

### **Fundamental Elements of An Effective Ombudsman Institution:** IOI

[https://www.theioi.org/downloads/934ch/Stockholm%20Conference\\_15.%20Plenary%20Session%20II\\_Dear%20Gottehrer.pdf](https://www.theioi.org/downloads/934ch/Stockholm%20Conference_15.%20Plenary%20Session%20II_Dear%20Gottehrer.pdf)

### **The judgment of wider courts: ombuds as producers of governance**

<http://www.gouvernance.ca/publications/09-06.pdf>

### **Ombudsman schemes and effective access to justice: A study of international practices and trends** October 2018: IBA

<https://www.ibanet.org/Document/Default.aspx?DocumentUid=77cc70e5-4cb4-40ae-a11b-4a17d96cfc93>



## Kenmar Associates

**A Blueprint for the evaluation of an Ombudsman's office:** Doctoral thesis  
[https://www.icann.org/en/system/files/files/blue\\_print-for-evaluation-of-an-ombudsman-nov08.pdf](https://www.icann.org/en/system/files/files/blue_print-for-evaluation-of-an-ombudsman-nov08.pdf)

**Defining Consumer Ombudsmen: A Report for Ombudsman Services** By  
Chris Gill and Carolyn Hirst  
<https://core.ac.uk/reader/161925157>

**FAIR Canada Comments on 2016 Independent Evaluation of OBSI - FAIR**  
Canada. Feb. 2016  
<https://faircanada.ca/submissions/fair-canada-comments-on-independent-evaluation-of-obsi/>

**Guide to setting up a Financial Services Ombudsman Scheme: International Network Financial ombudsman schemes.**  
[http://www.networkfso.org/assets/guide-to-setting-up-a-financial-services-ombudsman-scheme\\_info-network\\_march2018.pdf](http://www.networkfso.org/assets/guide-to-setting-up-a-financial-services-ombudsman-scheme_info-network_march2018.pdf)

**Strengthening Canada's External Complaint Handling System:** A. Teasdale  
<https://www.canada.ca/content/dam/fin/consultations/2021/echsb-etpsb-3.pdf>

**REDRESS IN RETAIL INVESTMENT MARKETS International Perspectives and Best Practices:** CFA Institute  
<https://www.cfainstitute.org/-/media/documents/article/position-paper/redress-in-retail-investment-markets-international-perspectives-best-practices.ashx>

**CSA Staff Notice: 31-312 - The Exempt Market Dealer Category under NI 31-103 Registration Requirements and Exemptions | Sections 13.15/16** <https://www.osc.ca/en/securities-law/instruments-rules-policies/3/31-312/csa-staff-notice-31-312-exempt-market-dealer-category-under-ni-31-103-registration-requirements>

**Statement of Ethical Principles:** Forum of Canadian Ombudsman  
[http://www.ombudsmanforum.ca/en/?page\\_id=157](http://www.ombudsmanforum.ca/en/?page_id=157)

**Confidentiality Approach - OBSI**  
<https://www.obsi.ca/en/how-we-work/confidentiality.aspx>

**Articles on confidentiality:** Journal of the International Ombudsman Association  
[https://ioa.memberclicks.net/assets/docs/JIOA\\_Articles/JIOA\\_Vol4\\_Issue\\_2.pdf](https://ioa.memberclicks.net/assets/docs/JIOA_Articles/JIOA_Vol4_Issue_2.pdf)

**Qualitative Research among Complainants:** IIROC March 2021  
<https://www.iroc.ca/qualitative-research-among-complainants>.