

Sent Via email

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Request for Comment on the Independent Evaluation of the Ombudsman for Banking Services and Investments (OBSI) with respect to Investment-Related Complaints

To: Deborah Battell dbattell@gmail.com Independent Reviewer

It is good to see that there is an independent review of the Ombudsman . It is sorely needed.

OBSI is a cornerstone of investor protection in Canada.

Unfortunately OBSI is not trusted by financial consumers. Anti-investor policies , weak governance and lack of investor engagement are the primary reasons. Major reforms are required and soon.

Community Outreach Program : Much more work needs to be done. The UK FOS is a good benchmark. Many people fail to complain because they do not know of OBSI's existence.

Board governance: There needs to be a lot more investor representation on the board of Directors . Such directors should be people who have a reputation at the grass roots level as champions of investor protection. A job specification should be prepared and publicly disclosed.

Director nomination: In the case of securities, regulators nominate candidates. For banking, it is the CBA , a trade Association and lobbyist , not the FCAC ,that makes the nomination. It is not clear why a lobbyist gets to nominate candidates for an independent Ombudsman service and how this impacts public perception of OBSI. Another issue involves having directors from the same corporate family as happened in 2011 when TD had two (see <http://business.financialpost.com/news/fp-street/critics-take-aim-at-td-directors-on-obsi>) . Controls should be in place to prevent this as it concentrates power with one corporation.

Termination of the Ombudsman for other than cause: The Board should not be allowed to fire the Ombudsman or cut his/her salary without cause. If special circumstances apply, these should be specified in the By-laws.

Policy and Standards Committee of the Board: According to the OBSI website the Policy and Standards Committee recommends and monitors OBSI's quality and performance standards, independent reviews and the Code of Conduct, as well as overseeing any revisions to the Terms of Reference. This is clearly a key committee yet no charter or committee composition is disclosed. The Committee has not revealed any improvements in standards I could find. But it certainly has blessed an atrocious standard- one where OBSI will investigate a complaint even though the investment

portfolio has been segmented into securities and insurance products. This goes against the fundamental principles of portfolio theory. This one example is enough to eliminate any credibility of this Committee- it places complainants in harm's way .

Human rights : Complainants should be able to provide law enforcement a copy of the investigation report if a crime is suspected.

Period between Independent Reviews: Three years is more appropriate than 5 years. A lot can happen in 5 years as evidenced since the last review in 2011. Nearly 1000 new members have joined from EMD, PM and Scholarship Trust ranks in the last year alone.

Oral complaints : OBSI should allow oral complaints. There are many Canadians who are not able to file a written complaint.

OBSI decisions should be binding on dealers: The current situation of Name and Shame and Low balling is a disgrace. According to the 2014 Annual Report Chairman Fernand Belisle noted that settlements well below OBSI recommendations were taking place. In other words, the dealer approached the victim , offered far less than OBSI recommended and was able to secure an agreement for the low ball offer. In this way it appears the dealer was able to subvert the minimal influence tool of Name & Shame. OBSI does not utilize Name & Shame when there is a settlement no matter how exploitative it may be. Given this state of affairs there is only one solution -make OBSI decisions binding on dealers.

Resolution cycle time : A service standard where one fifth of complaints can take longer than 180 days is unacceptable. It must surely be the lowest standard in the world for any Ombudsman . This needs to be changed. According to the 2014 annual report ,31% of complainants that did not receive compensation disagreed that the investigation occurred in a reasonable amount of time. Even among complainants that did receive compensation ,48% of people gave OBSI a score of 5 or less out of 10.

Filing complaints against OBSI : Canadians should be able to file a complaint about OBSI methodology , service quality , communications and service standards using an easy to complete form. OBSI should be obligated to reply within 30 days.

I hope the Board of Directors will act upon the recommendations of an independent review this time.

Permission is granted for public posting of this Comment letter.

David Fieldstone