Ombudsman for Banking Services and Investments
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ATTENTION: Mr. Mark Wright, Director, Communications and Stakeholder Relations
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OBSI Terms of Reference Renewal Project: Public Consultation April 13, 2018

I welcome the opportunity to provide comments on this important Consultation.

As someone who has experienced the bitter taste of the investment industry dispute resolution I am particularly sensitive to OBSI's updated Terms of Reference. Quite frankly I am shocked to read that the updated draft TORs were reviewed and provisionally approved by OBSI's Board of Directors. If OBSI received comments from banking and securities regulators and they have been fully incorporated into the proposed updated TORs, there is a serious issues in Canada's dispute resolution system. There are a number of provisions that are anti- Investor in the proposed TOR. It is also shocking that the OBSI board continues to refuse to reserve s Board position for the Retail Investor. This is incredibly arrogant and blatant disrespect for Main Street.

I do hope consumer groups and individuals jump in and prevent these TOR's from being activated against Canadians

Here are my suggested amendments:

ADD text re Strategic Approach: Explicitly state as suggested in the Battell Report that the OBSI takes a
strategic approach to ombudsmanship,incentivising staff to use the intelligence gained from cases to provide suitable additional value-added
services to Participating firms and guidance to financial consumer users. If OBSI is not given binding recommendation authority, it should not call itself an Ombudsman as it deceives the public.

Complaints about service The TOR should have a built in system for complaining about OBSI See the policy of the UK FOS http://www.financial-ombudsman.org.uk/publications/factsheets/complaints-about-our-service.pdf

ADD public policy text per Battell Recommendation:*" An ombudsman may also use its experience to inform public policy. We understand OBSI provides perspectives informally but consider it would better demonstrate OBSI's expertise, value and independence if it commented more formally on proposed legislation and regulations. This would supplement its responsibility to proactively inform regulators about systemic issues."* This is critical to give real meaning to OBSI's assertions that it acts in the Public interest.

The CIAC reports and minutes should be publicly posted on the OBSI website. The CIAC comments to this Consultation should be publicly posted and not hidden from public examination.

Time to handle a complaint OBSI should specify in its updated Terms of Reference a specific cycle time (in calendar days) limit for making a recommendation to resolve a complaint. The FCAC allows 120 days for banking complaints. Investment dealers have 90 days. I think 120 days for all complaints should be more than enough time.

The TOR should specifically state that the CSA Joint Regulatory Committee (JRC) oversees OBSI for investment related issues.

The updated Terms of Reference should include an obligation for OBSI to refer matters which may involve regulatory, criminal, fraudulent, elder abuse or other wrongdoing to the appropriate regulator, human rights commission, privacy commission or police force.

The TOR should define the period of time over which records and files will be maintained. I believe IIROC and MFDA utilize a 7 year period. While stored, the files should be privacy protected.

PART 2 – DEFINITIONS AND INTERPRETATION

The term "substantive response" should be explicitly defined as per National Instrument NI31-103 for investment complaints and per FCAC Commissioner Guidance for banking complaints. A response letter that is not binding on the dealer should be deemed to be in breach of securities regulations.

The sentence **"Standards" means any applicable statutory or regulatory requirements for handling and resolving complaints, as well as any other standards adopted by the Board for those purposes** is not inappropriate as long as it includes IIROC Rule 2500B *Client Complaint Handling* See http://www.canadianfundwatch.com/2018/04/mre-issues-with-iiroc-client-complaint.html *More Issues with IIROC complaint handling rules* .This rule is fundamentally flawed. See also this comprehensive analysis by Andrew Teasdale.http://blog.moneymanagedproperly.com/?p=5846

The authority for OBSI to act as an Ombudsman service should be formally cited in the TOR – for investments, that authority is derived from CSA National Instrument NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.

Systemic Issues The TOR should explicitly state that when a Systemic issue has been identified,OBSI should promptly notify the firm, the JRC,regulators and police as applicable. This is consistent with having a Public interest mandate.

PART 10 Monetary Limits: The TOR should incorporate the June 2016 Battell Report recommendation that OBSI reviews its compensation cap to bring it closer to the IIROC arbitration limit and amend its Terms of reference to require the compensation cap to be formally adjusted in line with inflation, on a three yearly basis.

“Para 11.2 Fair practices

11.2 Fair practices – At a minimum, and regardless of whether the Participating Firm believes the Complaint falls within OBSI’s mandate, the Participating Firm should:

(a) appoint a senior official to act as the final internal decision-maker on unresolved Complaints;

(b) promote their internal and external **complaint-handling processes through websites, brochures, mailings, emails and other means necessary to ensure Customers have ready access to them in the event of a Complaint ..”**
Please clarify what is meant external complaint-handling process. Internal bank “ombudsman” are not *external* as the CSA has declared them to be non-independent of the firm re http://www.nbsc-cvmnb.ca/nbsc/uploaded_topic_files/31-351-CSAN-2017-12-7-E.pdf .

PART 13 – RECOMMENDATIONS AND REJECTIONS OF COMPLAINTS

Para 13.3 is a bear trap for the retail investor. The best way for OBSI to promote fair dealing is for it to present its concluding recommendations to both parties to the dispute.
13.3 Settlement efforts while OBSI investigates – While investigating a Complaint, OBSI may seek to promote a resolution of the Complaint by agreement between the Complainant and the Participating Firm. The Complainant and the Participating Firm may also continue to seek to resolve the Complaint themselves if both parties agree. If no resolution is agreed upon, OBSI will complete its investigation of the Complaint and will either make a recommendation for its resolution or reject the Complaint.
This practice creates many opportunities for complainant exploitation, especially seniors/retirees desperate for money. The typical retail investor doesn’t stand a chance against the huge legal resources of investment dealers. By putting the investor in this position is to invite a low ball settlement. In fact, per the 2017 JRC Annual Report of 150 cases, fully 15%, or about one in six, were settled for amounts less than OBSI’s compensation recommendations. I simply cannot understand how the OBSI board agreed with this financial assault on complainants.

13.8 Consequences of refusal of a recommendation – If a Participating Firm refuses an OBSI recommendation for resolution of a Complaint:

(a) OBSI must first disclose to the Board and the Participating Firm’s regulators and then to the **public:** The term “Public” should be clearly defined as a posting on its website and a News Release through a recognized news service. There is no need to be vague about this.

Para 16.1 is nothing short of a violation of human rights. viz 16.1 General principles – OBSI’s dispute resolution process is confidential to the parties to the Complaint and OBSI. Accordingly, except as required by law or otherwise provided in these Terms of Reference:

(a) all discussions and correspondence between OBSI and the Complainant, the Participating Firm and their respective representatives that form part of the dispute resolution process are not

to be disclosed for any purpose **other than to a professional advisor** or used by the Complainant or the Participating Firm in any ongoing or subsequent legal or regulatory proceedings; I would argue that any attempt by OBSI to limit who the disclosure is provided to, is grounds for a human right breach. For instance, an authorized intervenor or adult child should be able to see the correspondence. This is another example of OBSI insulting complainants.

PART 18 – THIRD PARTY EVALUATIONS

18.1 Periodic evaluation – OBSI must submit itself to knowledgeable, independent third-party evaluations of its operations, conducted according to timelines established by its regulators. I absolutely disagree with an open ended timeframe for a review. This is very bad governance! This was previously three years and justifiably so given all the regulatory, technological and mandate changes. I strongly recommend that OBSI revert back to 3 years or more frequent cycle as circumstances dictate in accordance with good governance principles but no less frequently than mandated by regulators.

In reviewing the feedback letters from respondents it would be wise for the OBSI board to also consider the consumer survey results in the latest Annual report. Of those respondents just 20% were either very satisfied or somewhat satisfied with the outcome of the case and 80% reported not being satisfied with their case outcome. Forty nine percent found OBSI's final written conclusion very unclear (20%) ,somewhat unclear(12%) or neither clear nor unclear (17%) . These are not results the Board or JRC should be proud of. One thing is for sure- if this TOR is passed without major changes , more bad results can be expected .

I would also recommend that the TOR specifically state that OBSI uses Root Cause Analysis processes in its investigations. This is the standard used by the prestigious UK Financial Ombudsman Service.
In addition the following critical factors that should be considered,
in order to stop Industry Favored Terms of Reference From being Passed. Critical Factors, including the wastage of tolling time, Interview Bullying and mixing Customers up with their well prepared notes Scrambled so when they ask the Customer if they have any questions at the end of the fraudulent interviews the customer is completely dazzled. They must stop running to power when the case hits a core nerve because they are controlled by the mafia, and Extremely Fearful of Disclosing Bank Fraud.

They must stop the practices of Bribery, Gag Orders and highly illegal Extortion Threats which are a Criminal offense which should be reported to the Police, as a Serious Threat of harm to your finances and your life, Liable to Jail Time. They've got to stop Taking the rights of Complainants away with the Consent Letter to take the Case, so in effect you have No Rights to do anything once the industry Favored OBSI is Finished. OBSI should be either Scrapped or Overseen by perhaps SIPA, the Auditor General, or an advocacy organization in favor of Investors who mean business, Concerning Truthful Investigations and Investor compensation for severe losses suffered. OBSI final report evidence Should be admissible in Court. They should also be able to calculate and Roll Back the Tolling Time Wasted by the Internal Industry Services for the Bank or Broker, because it is not literally months or years between when a complaint is detected, and when it's launched, as well as Between Services it's just a

matter of Days prior to the Complaint Being Escalated to OBSI. When a case reaches OBSI even if the client is at the bottom of the waiting list, The Tolling Time should be stopped when the Case hits OBSI, and if it has been abused by the two services prior to OBSI, OBSI should be able to Roll Back The Tolling Clock until after OBSI Concludes its investigation and issues its final report. These are just a few of the practices required to be implemented to prevent industry favored terms of reference and practices from being passed.

In actual bribery, extortion, bullying and failure to disclose Bank Fraud and threats of financial, lawful and criminal harm that imply life endangerment in Industry Firms final release merits a Police arrest, substantial fines and long term incarceration.

OBSI should have the authority to compensate Victims of Bank Fraud to the Actual Value of their losses suffered and or perhaps should be capped at one Million Dollars to begin. OBSI being the COP in this scenario should have the Authority to Blow the Whistle on these Fraudulent Firms as well as having the Firm, it's employees/advisors Fired and their products Deeply Disparaged.

Victims should have their cases exposed on W5, or the Major News Media, without Fear of Repercussions of any Sort.

Industry should be legally warned, "IT IS A CRIMINAL OFFENSE to
THREATEN THEIR VICTIMS."
Industry should be Bold enough to Sign their Final Release/Documents, retract wording regarded as a Criminal Offense liable to prosecution to the full extent of the law.

Industry should Release Both Parties to go their separate ways so the Victim can have at least some Closure, Burial and a life Restart Disconnected from being a Forced Accessory against their Will to Enable Corporate Crime.

Industry appears to thrive on scare tactics/threats as well as compromising their victims integrity, conscience and intelligence allowing industry to relieve its responsibility for their Deliberate Willful Misconduct and is the Highest Form of Treason, Public Betrayal, Endangerment, and MOST OF ALL BREACH of TRUST IS LASTING and WILL be EXPOSED as well is a form of Cruelty in terms of Internal Kidnapping and Forcible Solitary Confinement for its Victims and not themselves.

I agree to public posting of this Comment Letter.

Sincerely,
Milly Jagdeo
Retail Investor