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**Subject:** OBSI assessor letter  
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**To:** [dbattell@gmail.com](mailto:dbattell@gmail.com)

**Via email**

February 6, 2016

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

To: Deborah Battell [dbattell@gmail.com](mailto:dbattell@gmail.com) Independent Assessor

As a former financial advisor with many years of experience in the financial services industry I would like to provide some feedback that may be useful to you in your assessment of OBSI and the key role it plays in investor protection.

To be sure, OBSI has many improvement opportunities. These include but are not limited to:

- > Weak corporate governance and investor engagement
- > A unhealthy shift to mediation, negotiation, haggling with dealers instead of independent investigation and analysis based on the facts of the complaint
- > A disturbing acceptance of exploitative "low ball" restitution settlements
- > Systemic issues appear to disappear into a sinkhole/are handled with wilful blindness
- > Multiple examples of limited transparency
- > Little evidence of feedback to industry / regulators for process and rule improvements

It is fair to say that OBSI has a way to go before it can say it routinely makes victims whole and its initiatives are in the Public interest. I leave it to other commenters who no doubt will articulate many improvement opportunities.

I would like to present a broad overview of the Canadian investing landscape so as to provide an understanding of the challenging environment OBSI must operate in. Here are some key points:

- >> Investor / consumer participation in Canadian securities regulation and OBSI minimal (the boards are literally "stacked" with conflicts of interest)
- >> So-called "Advice" business is actually a commission-incentivized sales system dominated by the big banks, and this is a fraudulent misrepresentation to the public.
- >> "Advisors" in Canada need to be affiliated with a dealer to get their license - while the exact category of registration and agency duty to the customer is kept well hidden, contrary to each Securities Act and industry rules of fairness, honesty and good faith dealing.
- >> Industry uses minimum acceptable standard for advice- OBSI use a fairness standard thus leading to conflicts with dealers
- >> Regulatory arbitrage with insurance products growing fast due to CRM2 et al
- >> OBSI will need two standards - one for PM's (fiduciaries) and one for IIROC dealer Reps (suitability standard)- may be difficult to navigate for OBSI
- >> SRO's set rules and standards based on a antiquated transaction model but promote themselves as regulating industry to an advisory model- this causes disagreements with OBSI
- >> Regulators do not provide clarity as to their expectations of OBSI and have in the past been indifferent / unsupportive to OBSI
- >> Regulators give dealers a free pass when the Reps sell Off book or engage in Personal financial dealings- OBSI does not, thus causing friction with dealers
- >> IIROC focuses enforcement efforts on individuals rather than dealers - OBSI holds dealers accountable for the actions of Reps

>> IIROC and MFDA complaint handling rules are rudimentary ,have not been updated in 5 years and are not enforced - OBSI is thus placed in the position with having to overturn a high percentage of complaints , creating more friction with dealers

>> Industry KYC and risk profiling processes are demonstrably amateurish

>> Unregulated Bank " internal ombudsman" confuse complainants and unduly route complainants away from OBSI exposing them to risks

>> IIROC and the MFDA do not fully appreciate or respect the role of an independent ombudsman-tend to view OBSI as a competitor and/ or a critic of their activities

The bottom line is that while some OBSI improvements are needed , unless there are real regulatory reforms, OBSI will continue to be a vulnerable minnow among the Sharks. At a minimum, OBSI must be given the mandate to provide binding settlements. The status quo provides an unacceptable level of investor protection to Canadians.

In the longer term I am confident this will result in better outcomes for complainants and a more trustworthy and effective wealth management industry.

I hope this is information useful to you.

Please free to contact me if you require more information.

This letter is approved for posting on the OBSI website.

Larry Elford

Lethbridge Alberta

