



Canadian Life
and Health Insurance
Association Inc.

Association canadienne
des compagnies d'assurances
de personnes inc.

INSURANCE
BUREAU
OF CANADA



BUREAU
D'ASSURANCE
DU CANADA

January 31, 2008

Dr. Peggy-Anne Brown
Chair
Ombudsman for Banking Services and Investments
c/o Brown Crawshaw Inc.
777 Hornby Street, 11th Floor
Vancouver, B.C.
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Dear Dr. Brown:

The Financial Services Council of Canada, the associations representing the banking, investment, mutual fund, life insurance, and property and casualty insurance industries in Canada, is writing collectively – in addition to more detailed submissions from the associations involved with the Ombudsman for Banking Services and Investments – to emphasize the concern that exists in the financial sector about the proposed approach to expand OBSI's *Terms of Reference* to deal with systemic issues. The proposed changes are a shift in the fundamentals of the ombudsman process, and could set an inappropriate precedent.

The proposed changes to the *Terms of Reference* as set out in the draft circulated for comment in December 2007 appear to go well beyond what we understand is the Joint Forum of Financial Market Regulators' intention regarding systemic issues. In its December 12, 2007 letters to the various associations, the Joint Forum makes clear that its view of the role of OBSI (and other ombudservices in the system) is that the "*OmbudServices would be in a position to identify the systemic problem for the firm affected, and assist them in any way acceptable to the firm to resolve it expeditiously*". It seems clear that the regulators did not envision a fundamental change in OBSI's or other ombudservices' roles that would impose new requirements on member firms, provide a range of new powers to the ombudservice, and move the ombudservice in a direction akin to that of a regulator.

Our overarching concern is that these proposed changes regarding systemic issues, taken together with other changes in the *Terms of Reference*, which are referenced in individual submissions from those of the undersigned who are directly affected by OBSI's changes, could move OBSI away from its intended ombudsman role (balanced, neutral and unbiased arbiter of fairness) to being more of an advocate. We believe that the proposed amendment to OBSI's *Terms of Reference* would fundamentally alter the nature of the service provided by OBSI, impose unacceptable requirements on member firms, and potentially lead to an undesirable overlap with the mandate of regulators. The ombudservices are intended to serve as impartial mediators for individual complaints where individual customers are not satisfied with the outcome of the internal process of the firm itself, not to act as advocates, to anticipate complaints or to impose standards or regulatory requirements on member firms. As such, we are concerned that conferring the proposed powers on a non-regulatory body risks jeopardizing the goodwill and trust on which the current system is based.

In a related vein, we are concerned about the proposed rigid requirements for complaint-handling time lines. We feel that these are inappropriate in many circumstances and would undermine firms' ability to handle the most complex complaints that are escalated higher in the complaint resolution process. Time lines need to be flexible enough to accommodate the wide variations in types of complaints and the nature of the various organizations that are members of the ombudservice. More detail on the above concerns and a range of other concerns are dealt with in our individual submissions.

The member associations of the Financial Services Council of Canada are strong supporters of an effective and timely consumer redress system, and individually and collectively we are committed to ensuring that the system is robust. It is from this perspective that we want you and your fellow board members to know of our concerns with the proposed changes to the OBSI *Terms of Reference* and the expansion of OBSI's role and mandate. For the reasons set out in this letter, we do not support the changes that have been proposed and urge you to reconsider them. This is a matter of importance to us and we would like the opportunity to discuss these concerns with you.

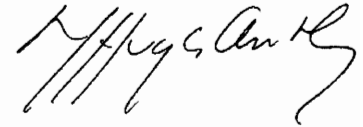
Yours sincerely,




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Investment Funds Institute of
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Ian Russell
Investment Industry
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Canadian Bankers Association



Frank Swedlove
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