

Financial Consumer Advocate Peter Whitehouse Response to OBSI Governance Consultation

Attention : Mr. M. Wright Mwright@obsi.ca

OBSI is not protected by legislation. An MOU exists that enables OBSI to be the sole dispute resolution service for the investment industry as well as a couple of Banks.

The Provincial securities regulators are the authors of the MOU. These regulators have also introduced the JRC to closely monitor OBSI's compliance with the MOU and interact with the Board and staff of OBSI on issues as they develop.

It's not possible to say whether this limits OBSI independence, but any updates on MOU and JRC mandate should pay keen attention to any provisions that might constrain OBSI independence. An update will be required due to the new SRO changing consumer expectations and of when a binding mandate is granted by regulators.

If FCAC do not award OBSI the charter for all banking issues, another consultation on governance will likely be required.

The current size and mix of industry and "Community" Directors and related provisions are appropriate . One Community Director position is set aside for a Consumer interests Director. The CIAC is intended to inform the Board of consumer issues, complaint trends, etc., but the Board has unceremoniously suspended the CIAC operations. This needs to be reversed immediately.

Using a skills matrix to select Directors is fine as long as the matrix is tailored for a not-for-profit financial Ombudsman with a public interest mandate. The matrix is useful but not sufficient. The attributes, as opposed to skills, need to apply to candidates. Attributes include a support for investor rights, first-hand knowledge of the frustrations consumers have in accessing and interacting with the industry approach to complaint resolution, a demonstrated interest in Ombudsman best practices, a history of calling for consumer protection reforms and a basic connection to human rights. Community Directors must not have any current or past affiliation with the financial services industry. The Annual reports are otherwise very informative.

Potential Community candidates could come from social workers, investor advocates , class action lawyers, Public Guardian, Investor Protection clinics , consumer groups, academia etc.

Transparency-related to governance can be improved by publishing Board meeting minutes, details of lowball settlements, CIAC reports and anonym-zed investigation files.

No Board Director should be eligible for a Directorship if the associated Firm has refused a OBSI compensation recommendation. Public perception cannot be ignored when selecting Directors.

I believe that Board nominations should not come from SRO's or the banking trade Association. Nominations for all Directors should be obtained by public solicitation.

The Directors should be chosen on the basis of their thought leadership and strategic thinking as regards a modern Ombudsman.

There are pros and cons related to Roundtables, Focus groups - for some types of issues they may be needed to supplement but not replace the Consumer interest Director or CIAC. A professionally designed annual stakeholder satisfaction survey can be a powerful source of feedback to assist the Board governance.

OBSI is functioning very well as a dispute resolution service. If the recommendations of the 2021, 2016 and 2012 independent reviews are accepted, OBSI will have moved a long way from being a case by case dispute resolution service to more of a real Ombudsman. Is this what the CSA and FCAC really want?

I agree to public posting of this letter.

Respectfully,
Peter Whitehouse
Financial Consumer Advocate