

April 24, 2018

Ombudsman for Banking Services and Investments  
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**OBSI Terms of Reference Renewal Project: Public Consultation** April 13, 2018

[https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/Appendix-A-Recommended-Updated-ToRs-April-2018\\_EN\\_2.pdf](https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/Appendix-A-Recommended-Updated-ToRs-April-2018_EN_2.pdf)

I appreciate the opportunity to provide comments on this Consultation.

I agree with the comments made by Kenmar Associates but would like to highlight one proposed clause in particular.

Para 5.1 (b) of the OBSI document says it will not proceed with a complaint if the complainant acts in a threatening manner. Fair enough. Yet in para. 13.3\*, OBSI provides a Participating firm the opportunity to continue to negotiate with a vulnerable complainant knowing that threats and intimidations may be (and have been per the Battell Report) used by the Participating firm to secure a low -ball settlement. For this reason, this paragraph should be removed in its entirety from the Terms of Reference.

[https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/Appendix-A-Recommended-Updated-ToRs-April-2018\\_EN\\_3.pdf](https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/Appendix-A-Recommended-Updated-ToRs-April-2018_EN_3.pdf)

**\*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.** According to the Battell report, roughly one in five OBSI cases where compensation is recommended falls short, either through a lower negotiated settlement or an outright refusal by the firm to pay. In 2015, 18% of non-backlog complainants who OBSI considered should receive compensation, received less than OBSI recommended (on average \$41,927 less); including 3.5% who were at risk of receiving nothing.

I hope this feedback is useful to you.

I agree to public posting of this Comment Letter.

Sincerely,

Larry Elford  
Retail Investor  
Alberta