

MEDIA RELEASE: CONSUMER AND INVESTOR ADVISORY COUNCIL TO OBSI ALARMED BY TD BANK DECISION

26/10/2011

Dear Mr. Melville,

As Chair of the Consumer and Investor Advisory Council, I am formally submitting to you the Council's unanimous position on the recent withdrawal of TD Bank from OBSI's banking services.

The Council formulated and submitted the Press Release via its own networks. It may be helpful to post this release on the OBSI's site to help ensure that the public is aware of the Council's position on this matter. It will need to be clear that this Press Release is the opinion of the Council as a whole, and is not reflective necessarily of OBSI management or Board. As the press release is circulated, the Council also wishes to underscore that Council members sit in their individual volunteer capacities and the statements of the Council are not reflective of, or attributable to, any other organizations to which Council members may belong.

The Council urges the OBSI Board and Management to take clear and deliberate steps towards moving forward in addressing the Khoury Report recommendations, with particular priority on the governance matters. It is the unanimous position of the Council that adequate resources must be allocated to addressing these underlying structural issues in order to ensure that OBSI is able to best help everyday Canadian consumers and investors.

It is the position of the Council that when such schisms exist within the broader stakeholder landscape, the consumer / investor is the most vulnerable and has the most to lose. The Council also urges OBSI to take steps to support and where possible, rebuild relationships amongst the various stakeholders. Clear movement towards a single-source, binding authority is strongly desired by Council.

The Council stands ready to support these initiatives as its mandate permits, and continues to serve at the pleasure of the Board in its advisory capacity.

Very best regards

Laura Watts, LLB Chair, Consumer and Investor Advisory Council Ombudsman for Banking Services and Investments

cc: Council Members

Dr. Brown, Chair of the Board

Tyler Fleming

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The Consumer and Investor Advisory Council to the Ombudsman for Banking Service and Investments (OBSI) was established to bring the voice of the everyday Canadian consumer to this sector.

The Council reacted with alarm and disappointment to TD Bank's decision to withdraw from the services of OBSI for its banking clients, a neutral, impartial ombudsman scheme that has been recently reviewed and assessed to be a 'gold standard' in the financial ombudsman sector.

"OBSI provides a free, fair and effective way for Canadians to resolve disputes with banks and financial institutions. Many Canadians would be unable to resolve their disputes effectively without a neutral third party dispute resolution body - one that consumers know that they can have confidence in" says Laura

Watts, Chair of the Council. TD has announced that it will retain a private profit-based mediation company for banking complaints instead of OBSI. TD will continue to use OBSI for investment complaints.

The Council is very concerned that using for-profit private mediation companies, hired by the financial institution itself, is not only confusing for consumers, it also could lead to the perception of a severe conflict of interest. "It can look to everyday Canadians that the financial institutions are buying their own judge", says Watts, "if banks can choose to whom the dispute goes to. An independent body with statutory binding powers can provide a better way."

Despite the move, TD representatives appear to agree that a reformed OBSI may be the answer. "We agree with the regulators that one single, independent dispute service is preferable and that should be OBSI," TD's internal ombudsman Paul Huyer was quoted in the Financial Post on October 26, 2011 as saying. "We're committed to work with regulators and OBSI to improve the service and reform it."

TD's withdrawal could be seen as putting pressure on the Canadian financial regulators to move quickly to designate OBSI as the single provider of consumer dispute resolution services and to make its recommendations binding - which has long been the call of the Consumer and Investor Advisory Council of OBSI.

There has been a high level of tension between some of the Canadian financial institutions and OBSI since RBC pulled out of OBSI's current non-binding, non-statutory dispute resolution scheme for banking matters.

Council member Julia Dublin notes that the challenges faced are largely attributable to the original design of OBSI as an institution, and if not addressed will continue to hamper OBSI's operations. "I do not believe that consumers benefit at all from a system that delivers them to a confusing array of competing private financial dispute resolution services. The experience in jurisdictions such as New Zealand that have experimented with this approach demonstrates that a single mandatory system is the way to go."

In these uncertain economic times, the need for a single-access point, easy-to-understand and neutral process is more important than ever. The Council is committed to working with consumer advocates, the financial sector and government to support a transition to a binding judgment process that works for Canadians. Changes will have to be made in the governance of OBSI to allow this to happen. This point was emphasized in a recent external review of OBSI which, while giving OBSI high marks, the report noted the severe limitations on the organization itself. OBSI must be given the powers and resources it needs to work on the scale this challenging economy will require. The Council also urges that resources be made available to help lead the implementation of the changes suggested in the external reviewer's report. Without leadership and resources to smooth these troubled waters, all parties will continue to be negatively affected.

The Council also urges that the financial regulators act quickly to reform OBSI's governance, to designate OBSI as the single provider of consumer dispute resolution services in the banking and investment sectors, and to make its recommendations binding. The Council also supports working with all parties to create solutions to overcome the current impasse. "In the end, it is the consumer who loses when OBSI does not have the power and resources it needs to work effectively. Canadians want a system that works, that all stakeholders including the financial industry, can feel comfortable with. The Council is committed to working to achieve these solutions together" says Watts.

Council members sit in their individual private capacities and do not represent organizations to whom their members may belong.

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