

REMARKS TO THE HOUSE OF COMMONS STANDING COMMITTEE ON FINANCE

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Thank you Mr. Chair and Finance Committee members for the kind invitation to appear before you today. We greatly appreciate the opportunity to speak with you about some of the issues facing Canadians at a critical time for the financial consumer protection framework in this country.

Before getting to that, I would like to first offer my congratulations to you, Mr. Chair, for the significant personal emphasis you have placed on improving the financial literacy of Canadians. Financial literacy is something near and dear to my heart, and I know that all members here share in the goal of improving the financial outcomes and well-being of Canadians.

For 16 years OBSI has served as Canada's independent financial ombudsman, acting as an impartial and fair investigator of consumer complaints. We are a linchpin component of the financial consumer protection framework in this country. We are literally the only avenue for consumers to get compensation in the event of a problem caused by their bank, outside of the courts. We also serve as an early-warning system, which allows firms to correct problems at low-cost and before they are litigated, while also providing regulators and public policy makers with unique data to inform their decision-making. Now, all that is at risk.

To give you a sense of the constituency we serve: 75% of OBSI complainants are 50 years or age of older, meaning they are at or approaching the end of their earning years. An outright majority (53%) of people who complain to OBSI are seniors. For many of these individuals, the financial harm they suffer when a bank or investment firm makes a mistake is magnified by having fewer years to make up the losses and fewer income or job opportunities. Based on medical research, we also know that financial shocks late in life can shorten seniors' lifespans... some estimates say by 5 years, on average.

A bit of history:

Sixteen years ago, the banking sector first proposed an independent Ombudsman as an alternative to the imminent imposition of a federal statutory agency to settle bank disputes. This was set up as a voluntary system with appropriate safeguards for independence that was permitted by government on the condition that all banks participate. In 2002, the aftermath of the collapse of technology stocks saw our mandate expand to include the investment sector, where participation is mostly mandatory through self-regulatory agency rules.

This is a point I'll come back to: OBSI was not created as a simple private supplier contracted by each participating bank. We were created to have a much broader public interest and public policy function, balancing the needs of all stakeholders. It's a role we take seriously.

Now it seems that a vocal minority of banks have forgotten the genesis of this industry-created solution.

Three years ago, RBC left OBSI for banking complaints at the height of the worldwide economic and market meltdown, when government and Parliament was busy dealing with bigger matters. TD followed this past October.

Both banks now want the government or Parliament to "lock-in" their own chosen private providers of dispute resolution to resolve complaints with their customers. It is difficult to see how this is anything but a giant step backward for consumer protection in Canada.

The immediate turmoil caused by TD's sudden recent departure is now behind us but it has raised a fundamental question for parliamentarians and regulators to answer.

The public policy question is this: should banks be permitted to choose their own provider of dispute resolution? In essence, hire and pay for the organization that will judge and rule on their market conduct?

I ask you: If the banks were given the choice of being regulated by the Department of Finance, or some private for-profit body of their own choosing, who do think they would pick?

The independent investigation of consumer complaints cannot be credibly handled by a private for-profit supplier chosen and paid for by the bank. A service hired by the bank and that, consequently, has the bank as a client creates the perception, if not the reality, of a loss of critical independence. The service will know who it is they need to please in order to keep the business, and it's not the individual making the complaint. It is a clear conflict of interest.

We are firmly of the view that the dispute-resolution process that consumers access needs to be credible, independent, and impartial – not beholden to any one stakeholder group.

Allowing banks to choose a dispute resolution provider gives all the power to the financial institution and none to the consumer.

Canadian consumer groups are unanimous in opposition to this, as are leading international organizations such as the World Bank.

To conclude, it is clear that the only system that can function in the public and consumer interest is one where OBSI is the sole approved dispute resolution service for banking consumers, and we would ask for your support in this regard.

Thank you. I would be happy to answer any questions you may have.