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Transmitted Via email

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2026 Independent External Review of OBSI
https://obsireview.crkhoury.com.au/wp-content/uploads/2026/02/OBSI-2026-Review-Request-for-Comment_EN.pdf

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I welcome the opportunity to provide input on OBSI improvement potential.

The current consultation breaks from tradition by combining banking and investment mandates in a single consultation. These are two separate and distinct mandates with different oversight regimes. I presume there will be focussed reports for each mandate. The short time allotted for public consultation favours Participating Firms. Thankfully, it was extended allowing at least some public comment. This should not recur in future. In future, comment letters should only be posted on OBSI's secure website, not on a foreign site.

Over the last decade OBSI has shifted from an ombudsman model to one more resembling a regulator. A swing back to the ombudsman approach would be in the Public interest and enhance consumer protection. This transition will require the active engagement by the Canadian Securities Administrators.

I recommend that, if possible, the review compare OBSI not just to the CSA MOU but also to ISO 10003, *Fundamental principles for a financial services ombudsman scheme*: FSO network <https://www.networkfso.org/principles.php> and/or AFCA standards.

I found it impossible to obtain key information about the complaint system. For example- complaint data about how many complaints go directly to OBSI and those that go to an internal "ombudsman". Commenters could use such information to validate concerns that Firms divert complainants away from OBSI.

While the Ontario government has previously expressed general support for the Ontario Securities Commission's (OSC) efforts to modernize dispute resolution, the 2026 budget did not commit to the specific legislative steps required to finalize OBSI binding authority. Ontario's inaction, as the home of Canada's largest capital market, risks undermining investor trust and keeping it behind other jurisdictions. I hope your report will motivate the Ontario government into action.

Please find below my recommendations for improving the complaint system:

Binding decision framework: The CSA proposed binding decision framework should be easy to navigate, expeditious and not require the complainant to recruit legal assistance. CSA oversight should be proportionate to risk and maintain OBSI's independence.

Compensation cap: The award limit of \$350,000 has not increased in 30 years. Other Ombudsmen routinely raise the limit. *UK FCA Confirms An Increase To FOS Award Limits* | A&O Shearman – JDSupra <https://www.jdsupra.com/legalnews/uk-fca-confirms-an-increase-to-fos-1430553/> Is a review of the limit not in order?

Creating awareness: OBSI should market itself so the public is aware of its existence and free dispute resolution services. Radio and TV ads would help. Webinars should be offered to the public. Success stories or Special Reports should be announced via News Release. Implementation of AI would be newsworthy. Communications should state that OBSI is available immediately after receipt of the Firm's initial response letter.

Public interest: OBSI should clarify its interpretation of acting in the Public interest.

CSA engagement: Joint CSA Staff Notice 31-351, IIROC Notice 17-0229, MFDA Bulletin #0736-M - Complying with requirements regarding the Ombudsman for Banking Services and Investments states in part as follows on behalf of CSA, IIROC and MFDA Staff:

"Staff will not assume that there is a compliance failure at every registered Firm that does not comply with an OBSI recommendation by refusing to compensate a client or by settling below OBSI's recommended compensation. Staff will also not automatically commence a review in every case." This is a missed opportunity for the CSA to better understand why differences in loss calculation occur. With increased understanding, the CSA could better decide on corrective measures. A blinkered approach will not lead to system improvement or sound retail investor protection.

The Consent letter: OBSI requires complainants to sign a Consent letter. The letter requires that the complainant will not use any correspondence or information from OBSI's process in legal proceedings and will not require OBSI staff or advisors to give evidence or testify in any legal proceedings. How is such restraint on evidence in the Public interest or in the complainants best interests?

Gagging complainants: The wonderful letter by Professor J. Macfarlane says it all. NDA's add stress to an already stressful process. Prohibition is the right thing to do. Surely, OBSI does not intend preventing complainants from informing a spouse or caregiver, police if applicable, medical practitioner or OBSI's external reviewer. Any information disclosed before signing the Consent form should be exempted from the Consent forms' gagging provisions. Firms also often use NDAs in settlement Agreements adding to the harm caused by the bad financial advice provided.

I recommend that the review examine some of the onerous Confidentiality agreements used by OBSI's Participating Firms and make their terms public. That should prompt the CSA and CIRO to prohibit them. I cannot understand why OBSI, an Ombudsman, support their use. NDA's are unfair, exploitive, protect those who provided harmful advice, allow others being similarly harmed to be kept in the dark and induce significant complainant stress and disgust.

Pre-OBSI: Much of the weakness in the complaint system comes before OBSI is involved. One of the biggest issues is the generous 90 calendar days (13 weeks) CIRO provides its Members to respond to a complaint. Long timelines cause retail investors to abandon complaints or accept unfair offers. Dissatisfied clients often share their frustrations through social media, reviews, or word-of-mouth, which can tarnish a Firm's (and industry) image. Long response times signal to complainants that their needs aren't a priority. This can drive them to explore competitors who may offer more attentive service or become DIY investors. I urge the CIRO to compress the response time to no more than 60 calendar days.

Deal with Hardship cases: OBSI should establish a fast track system to expedite the investigation of cases involving vulnerable complainants.

External review Interval: It is entirely unreasonable to allow 60 months to pass before OBSI is reviewed again. The financial industry is undergoing unprecedented change and so is OBSI. The MOU itself needs an update.

Seniors Initiative: The Board should establish a seniors initiative so that investigators are trained and processes developed to ensure complaints from seniors are fairly investigated. According to OBSI statistics, seniors account for a disproportionately high percentage of complaints, so the issue is critical and can only grow in the future. The proposed Binding framework will almost certainly require support for seniors to navigate the inherent complexities of the proposed system.

Firm communications : I recommend that the OBSI provide you with an analysis of how investment Dealers (Participating Firms) inform complainants how they can access OBSI .I expect that it will be found a confusing picture which would help explain the high number of diversions away from OBSI. For example, some Firms claim that access to OBSI can only be obtained after an internal appeals process, others present the OBSI choice at the same time they offer their non- independent internal dispute resolution service. The choice should be made clear- in plain language —OBSI is THE independent Appeals service approved by regulators.

A Main Street voice: A group similar to the OSCs Investor Advisory Panel should be established to provide direct unimpeded input to management (and the Board) on complainant needs, OBSI's performance improvement opportunities, OBSI behaviour and funding for empirical research projects. This should be a high priority given the many issues facing OBSI.

Investigator training: Establish a training course for Firms in complaint handling best practices. *How to handle customer complaints according to ISO Standards* [ISO 9001: How to Manage Customer Complaints to ISO Standards](#) Should complaint investigators be licensed/ certificated? The same course could be used to train External Decision Makers.

Productivity and AI: OBSI should consider the use of Artificial Intelligence in the management of its operations. With the onset of a binding mandate and continuing Firm non-compliance with CFR, complaint rates will rise. If no action is taken, cost growth could run into double digits. Productivity growth should be a strategic objective. *From Hype to Output: How AI Investment Translates to Real Productivity Gains* – C.D. Howe Institute <https://cdhowe.org/publication/from-hype-to-output-how-ai-investment-translates-to-real-productivity-gains/>

Consider instruction of TQM: OBSI should consider implementing Total Quality Management to dramatically improve disappointing consumer stakeholder satisfaction ratings, accelerate recommendation reports and reduce operating expenses.

OBSI should be required to publicly respond to each Review recommendation in the final review report. The Review should also recommend a formal public response requirement whereby the CSA state what recommendations they accept, what they reject, with reasons, within a defined timeline following release of the Review report.

A modern financial ombudsman service can be a major force in rebuilding trust and confidence in financial services. The CSA must decide- does it want a modern Ombudsman service or a case-by-case dispute resolver? If the latter, OBSI's nomenclature must be *changed*. Reference *Beyond binding authority — improving Canada's complaint-handling system* | Investment Executive <https://www.investmentexecutive.com/insight/letters-to-the-editor/opinion-beyond-binding-authority-improving-canadas-complaint-handling-system/> .

I sincerely hope you find this commentary useful.

Please note

Permission is granted to post this letter on the OBSI website but without my name. I wish to remain anonymous.

[Name Withheld]