

Mr. Phil Khoury
Lead Reviewer
review@crkhoury.com

March 16, 2026

Dear Mr. Khoury:

Re: 2026 Independent External Review of the Ombudsman for Banking Services and Investments (OBSI)

Please consider this submission relating to the 2026 Independent External Review of OBSI. It addresses two issues: the Canadian Investment Regulatory Organization (CIRO) 2025/26 data breach and matters more directly related to OBSI's current mandate.

I. CIRO Data Breach Relevance to External Review

While the specifics of the breach fall outside OBSI's current purview, the incident highlights a systemic weakness in our ability to ensure financial consumer protection/redress across regulatory boundaries. This letter is not intended as a criticism of Canadian regulators, who work diligently to deliver effective oversight; rather, it addresses a loophole that currently impedes comprehensive consumer protection.

As an advocate focused on investors and financial regulation, I'm concerned that the current legal framework does not extend to regulators overseeing the firms and individuals whose cases OBSI adjudicates. If a regulator fails in its duties, the financial firms and individuals under their oversight are doubly penalized, first by the resulting expense and second, by a loss of trust. Financial consumers also suffer in two ways: from the compromise of their personal data and from a diminished faith in the institutions and regulators expected to keep them safe.

The benefit behind the independence of your review is that recommendations can extend beyond OBSI's current terms of reference to identify systemic weaknesses based on the premise that financial consumer protection is only as strong as each link in the chain.

- 1. Systemic failure → Close the authority gap:** When a regulator – including one acting under delegated statutory power – allows the compromise of sensitive information it mandates that regulated entities obtain (such as SINs and birth dates), there is currently no easily accessible method of problem resolution like the service OBSI provides for client-firm-level disputes.

The External Review should recommend that OBSI – given its Memoranda of Understanding with federal and provincial authorities and problem-solving expertise – be tasked with facilitating a path to resolution when regulatory governance fails the public interest (see also I.3, 4).

- 2. Reporting omission → Require disclosure to regulated entities:** While CIRO is believed to undergo a System and Organization Controls Type II (SOC 2) audit each year, summaries of these results are apparently not available to the firms being regulated. As the July 2025 Canadian Securities Administrators (CSA) *Oversight Review Report* did not identify data protection or major IT failings at CIRO, it remains uncertain whether a SOC 2 audit was performed and, if so, what weaknesses were identified (and which firm prepared the report).

The External Review should recommend that regulators be required to publish an annual high-level summary SOC 3 Report to those they regulate. This could confirm that security and privacy controls are functioning effectively without compromising sensitive IT-security-related technical details.

- 3. Lack of transparency → Ensure overall process clarity for stakeholders:** Following the data breach, stakeholders – first firms and advisors, and after the full extent of the data loss was known, investors, retirees, current and former employees – called for greater transparency from CIRO, as well as securities and privacy commissions, to no apparent avail. While there are legitimate needs for confidentiality during an active investigation (for privacy reasons and to prevent release of information that could lead to a further systems attack in the breach instance), they do not override the necessity of maintaining stakeholder trust in the *process*. For example, CIRO’s continued lack of clarity regarding data retention policies has further damaged credibility, as has the unwillingness to tell investors with respect to which firm their data was lost to allow firms to better help their clients and clients to receive that help.

The External Review should recommend that regulators be held to the same high transparency standards as individual firms are in order to support trust in the financial system. This should entail, in the extremely rare cases this is expected to be required, creation for a fixed term of a small task force of independent, objective, knowledgeable volunteers, including a few members representing stakeholders’ right to know and a few the need to maintain confidentiality. The task force would meet with relevant parties and prepare monthly reports on remediation progress that can be released publicly in the way that SOC 3 reports are.

- 4. Lack of appropriate redress → Provide meaningful incentives without unintentional damage:** Under current structures, regulators typically recover the costs of failure by raising fees on regulated parties, effectively requiring firms to pay for the regulator’s mistakes. In the CIRO instance, the costs of remediation, technology upgrades, and potential class-action awards will likely approach \$100 million, and this is apart from the expected cost to CIRO-regulated firms of additional regulatory obligations CIRO is expected to require of dealers.

The External Review should recommend that the burden of costs and legal awards, in cases of significant regulatory failure, fall first upon the regulator’s insurance, and second upon the governments that delegated authority. This would both spread costs more widely and create a stronger incentive for oversight. It is in the interests of the entire country to have a strong, well-regulated financial system that people trust will stand behind them in instances of unusual failure and that regulated firms will see as fairer.

II. Other Matters

These comments reflect our February 27, 2026 discussions and further information received since then.

- 1. Improve consumer-/user friendliness:** I believe all parties recognize the importance of a user-friendly complaint-handling process providing equal access to redress regardless of consumers’ varying levels of spoken and written English or French, and educational, financial and technology literacy. OBSI is to be commended for efforts at plain language on the “Submit your complaint to OBSI” page, however, the current online intake process requires consumers to navigate multiple data-entry screens and qualifying hurdles before the full extent of the documentation burden is even revealed. When we met on February 27, I mentioned a case about to be escalated to OBSI relating to a bank that continued to make enquiries against the credit history of a former client without that person’s consent. The bank had produced reams of documents dating back to 2002 when a later simple phone call revealed that the problem was a still-open line of credit that had not been properly terminated when the client had asked that all accounts be closed in 2017.

The External Review should strongly recommend that OBSI adopt a process similar to that in place in certain Ontario police divisions, namely that a complainant summarizes the issue on a page which a police officer reviews to better ascertain what the complainant really wants, so helping them avoid a lengthier process that may be unnecessary. Similarly, the U.K. Financial Conduct

Authority's (FCA's) Smarter Regulator model is now replacing dense, multi-page requirements with a, two-page Discovery Document at inception of an issue. Such an approach in OBSI's case would allow a consumer to outline core grievances and the desired outcome in plain language, before determining if the full burden of exhaustive documentation is necessary, avoiding the investor fatigue that could lead unfairly to abandoned claims. It would also make the redress process more accessible to the most vulnerable stakeholders, while possibly also reducing the burden on Participating Firms.

- 2. Recalibrate consumer governance involvement:** I was surprised to learn the Consumer and Investor Advisory Council had been eliminated, but understand it has been replaced by semi-annual stakeholder meetings. I reviewed a number of publicly available summaries of the sessions and OBSI is to be commended on the range of issues covered and transparency if stakeholder participants believe the notes accurately reflect discussion.

The External Review should recommend the addition of a standard item early on in each session's agenda summarizing what stakeholder recommendations first raised in the past session have been studied further, addressed, added to the day's agenda, or dropped (and why). Also, for greater prominence of consumer contribution, presentation tables should be attached as appendices *after* consumer advocate issues discussion.

- 3. Review of non-disclosure agreements (NDAs):** The purposes of NDAs used by Participating Firms can be reasonable, however, it seems the highly legalistic and increasingly broad terms of some NDAs may be removing fairness from the process for the financial consumer.

The External Review should consider recommending an as of right standard concise, plain-language NDA that would better balance the interests of consumers and Participating Firms.

- 4. Governance – operations experience:** My years in the financial services industry lead me to believe that many people, both on the consumer advocate and industry side, try to do the right thing, but can become stymied by misconceptions and a lack of understanding of some basic practicalities.

The External Review should recommend the addition of 'hands-on' operational experience as a core competency for a Board and a senior staff member, prioritizing individuals who have a real-world problem-solving focus aimed at optimally balancing consumer protection, cost-effectiveness, and common sense.

- 5. Cost/complexity-conscious:** I strongly support OBSI's consumer protection efforts and believe that efforts should be made to ease the burden on consumer complainants. I also recognize that OBSI's Participating Firms are subject to multiple regulations and regulators, and pay for these as well as for multiple financial literacy initiatives, investor advisory panels, FAIR Canada, and, in the case of investment firms, two free redress mechanisms (via OBSI and CIRO).

The External Review should mention this poorly understood fact and consider what recommendations might be made to achieve the same or better consumer results across the broader system at lower system-wide cost.

Thank you for your time and your team's work. I look forward to the practical outcome of your efforts.

Sincerely,

Barb Amaden