

March 26, 2026

## **OBSI Independent External Review Consultation**

[https://obsireview.crkhoury.com.au/wp-content/uploads/2026/02/OBSI-2026-Review-Request-for-Comment\\_EN.pdf](https://obsireview.crkhoury.com.au/wp-content/uploads/2026/02/OBSI-2026-Review-Request-for-Comment_EN.pdf)

**Attention:** [review@crkhoury.com](mailto:review@crkhoury.com)

I will make my comments short and sweet

The CSA's complaint handling rules are dated, poorly designed and unfit for purpose. The purpose should be fair and timely resolution of complaints, all the while treating the complainant with respect as a valued client. It should also have the basic objective of finding the root cause(s) of the complaint and eliminating it to prevent recurrence. If the CSA is sincere in wanting to protect retail investors, it must make it a priority for 2026.

That is not what we have in place. The system is adversarial and attempts to wear down the client. Dealers have created an internal competitor to OBSI for appeals. This entity was previously known by the false label "internal ombudsman".

In the case of the bank-owned Dealers it is an affiliate of the bank- an affiliate not registered with CIRO or the CSA. Such an entity is not independent and is not a legitimate appeals alternative to OBSI. The Terms of Reference are nothing short of a trap for the unsuspecting client. Take a look at the Terms of Reference of a typical Chief Complaints Appeal Office. (CCAO) Bank of Nova Scotia ( 4 pages) <https://www.scotiabank.com/ca/en/about/contact-us/customer-care/ccao/terms-of-reference.html> and the CIBC Client Complaint Appeals Office <https://www.cibc.com/en/about-cibc/corporate-responsibility/service-commitment/resolving-your-complaints/cibc-client-complaint-appeals-office.html> This Office does not provide a binding decision. A multi-stage complaint system favours Participating Firms.

CIRO complaint handling rules are also outdated - they allow 90 calendar days plus another 30 days for an escalation (i.e. an appeal). This design has the effect of causing "complainant fatigue"; it also keeps complaints in-house rather than filed with independent OBSI. Quebec's AMF has realized all these shortcomings and laid down a modern complaint resolution system with a resolution time of 60 calendar days. CIRO has been delinquent in maintaining the status quo.

A 2016 risk profiling study conducted on behalf of the OSC IAP found that most of the questionnaires (83.3%) in use by the industry are not fit for purpose - they have too few questions, poorly worded or confusing questions, arbitrary scoring models, merge multiple factors (75%) without clarity, or have outright poor scoring models. Fifty-five percent had no mechanism to recognize risk-averse clients who should remain only in cash.

[https://www.osc.ca/sites/default/files/2021-02/iap\\_20151112\\_risk-profiling-report.pdf](https://www.osc.ca/sites/default/files/2021-02/iap_20151112_risk-profiling-report.pdf). The CSA and/or CIRO should issue Guidance that would bring behavioural science to risk profiling practices and reduce the variability of risk profile assessments. Reference: **Risk Profiling and Risk Scoring Tools**  
<https://www.morningstar.com/en-ca/business/products/direct-advisory-suite/risk-profiling-and-scoring>

When clients engage a financial advisor it is to recommend securities for purchase that match the KYC BUT as markets and individual stocks face headwinds (or client KYC changes) ,that advisor also has a duty to mitigate portfolio losses by recommending sale .The Firm/advisor is responsible for mitigating losses and a complaint investigation should take that point into consideration. Such a practice is wholly congruent with CFR obligations. Firms that place mitigation obligations on retail investor clients are abusing the relationship and avoiding their duty to act in the best interests of clients.

Firms that sell only proprietary products are constrained because if their limited range of products underperform they cannot adjust the portfolio to mitigate losses. OBSI should not be expected to consider this, by- design, limitation in deciding accountability.

Clearly, providing OBSI a binding mandate is necessary but not sufficient. Much of the rot lies well before a complaint ever arrives at OBSI.

OBSI should provide more information about limitation periods to the closing letter sent to investors. Specifically, OBSI should include information about the limitation periods in each province and territory.

OBSI's reconsideration closing letters should contain supporting information with respect to the process the reconsideration officer undertook and more detailed plain language reasons for either upholding or overturning the original decision. I recommend you review the OBSI process for integrity and timeliness. i

Given the OSC drive to permit retail investor access to illiquid securities, OBSI staff should be well trained and a loss-calculation methodology agreed upon by all parties concerned. The prevailing OBSI methodology has been endorsed via independent reviews and a recent consultation.

I believe a low-ball offer is in effect a refusal and should be exposed to Name and Shame publicity. All refusals and low-ball offers should be exposed to regulatory review and appropriate regulatory action taken including investor compensation as appropriate.

Still, a Binding decision mandate can help reduce and prevent refusals and low-balls. With a binding mandate, it will be harder for Firms to divert complainants from OBSI. OBSI investigators will feel more confident and not be forced to negotiate under unfair conditions.

Under a binding mandate, OBSI certainly will require greater oversight by the JRC. The oversight should maintain OBSI independence but include quality and timely communications between the parties.

The JRC should promote complaint handling rule modernization and construct a pragmatic protocol for processing systemic issues and delivering compensation to all harmed investors. The 2021 Puri Report recommended:

“OBSI should work with the JRC to review and improve the systemic issue reporting system, including by:

1. Amending the definition of systemic issue to include complaints raised by a single complainant;
2. Requiring OBSI to report repeated systemic issues year-after-year, even if the same issue was identified in prior years; and
3. Ensuring more robust communication between the JRC and OBSI once a systemic issue has been identified by OBSI.”

This recommendation was side-lined with no alternative replacement introduced by the CSA. This is an open issue requiring CSA action.

OBSI governance merits a review including Board composition, the use of a cooling-off period to undermine Director independence and conflict-of-interest. The ultra-short timeline authorized to respond to this consultation itself exposes a mindset that favours Participating Firms.

I would also highly recommend that a consumer advocacy panel be established similar to the OSC IAP with a mandate to comment on OBSI practices / policies and raise investor protection issues. The Panel should be independent, transparent and have a budget to fund research/ conduct investor surveys.

The complaint system should be cleansed of oppressive NDAs that protect those who harmed clients and add to the pain and anguish of victims. I encourage you to review a sample of these one-way, non- negotiable confidentiality agreements and speak with Professor Julie MacFarlane who has empirical research demonstrating the physical and mental health issues surrounding the signing of a NDA.

There should be a discussion with staff to determine how complaints are deemed out-of-mandate and if those determinations are reasonable. Dealers impose all kinds of terms and conditions at account opening that may be inconsistent with laws, fair dealing and the Client Focussed Reforms.

Finally, I would recommend you review a sample of low-ball settlements looking for an explanation as to why there is such a huge difference in calculated losses between OBSI and Firms.

With this information, I believe you will be enabled to provide evidence-based recommendations to the OBSI Board.

Permission is granted to post this letter on the OBSI website.

Sincerely,  
Peter Whitehouse