

March 22, 2026

Sent via email

Attention: review@crkhoury.com

Request for comment for OBSI Independent Review

I appreciate the opportunity to provide comments on this consultation. OBSI's lack of a binding mandate is the primary issue of this consultation but other serious issues exist, most pre-OBSI stage of complaint system.

Other Recommendations

Strategic Plan

It is encouraging to see that OBSI has a strategic plan given the constraints of its mandate. One idea would be to include more metrics. It is easier to measure progress with numbers, metrics. Some metrics might be

- Staff turnover
- The cost per complaint settled
- The number of systemic issues identified and reported
- The % reduction in average complaint assessment time y/y
- Consumer satisfaction percentage
- The usage of AI
- The number of informative studies publicly released
- The number of research reports released
- Number of OBSI ideas adopted by industry participants
- Reduction of Reconsideration option

I recommend OBSI employ SWOT analysis. It enables organizations to build on advantages, address deficiencies, capitalize on trends, and mitigate risks.

Establish a formal complaints department

A professional complaints dept. would assess complaints about the standard of service provided by OBSI in interacting with the public , including, but not limited to, complaints about: (a) the professionalism, competence and attitude of staff ; (b) communication ; (c) fairness and impartiality ; (d) timeliness ; (e) adherence to OBSI's processes and (f) dealing with out of mandate decisions.

Stakeholder meetings

A semi-annual, two hour meeting is not a robust method for learning about complainant issues or improvement opportunities. This observation is particularly valid when the majority of the meeting is spent listening to OBSI achievements as observed in reading published meeting minutes. If these meetings persist, presentation materials should be distributed in advance of the meeting. A short period should be allocated to discussing the materials. The vast

majority of the meeting should be used to discuss issues raised in depth. i.e. OBSI listening, not speaking.

2024 OBSI consumer satisfaction statistics

Per the 2024 consumer study:

"Our consumer surveys consistently show that there is a strong correlation between receiving compensation and higher reported satisfaction with our services. In 2024, 27% of consumers gave our services a favourable rating and would recommend our service while 19% were satisfied with the outcome of their complaint. We recommended settlements (monetary and non-monetary compensation) in 26% of cases" [.https://www.obsi.ca/media/ibfeh1lk/consumer-survey-2024_en_0327.pdf](https://www.obsi.ca/media/ibfeh1lk/consumer-survey-2024_en_0327.pdf)

These statistics cry out for senior management analysis and action.

Assisting with complaint formulation

Industry chastises OBSI for assisting unsophisticated investors who are unfamiliar with complaint-resolution processes to formulate their complaints. The basis for this objection is that it compromises OBSI's neutrality. Obviously, OBSI will have to ensure that the same person does not perform both functions. It is, however, important to the complaint-resolution process that the facts on both sides be clearly articulated. Most retail complainants do not have the resources, knowledge or experience that the financial service providers have. The credibility of the investment industry and its lobbyists is strained by their intemperate responses to OBSI's behaviour, which is aimed at making OBSI's dispute-resolution service more effective and fair. OBSI is on the right track and the CSA should prominently support this practice.

Sharing OBSI's Determination

Complainants should be free to disclose a copy of OBSI's final determination letter to:

- Immediate family , POA
- Lawyer , accountant ,Financial planner
- OBSI external reviewer
- Law enforcement, CSIS, RCMP
- FCAC ,Applicable regulator(s)
- Privacy Commission
- Competition Bureau
- Human rights organizations
- Religious counsellor
- Doctor or mental health professional
- Provincial or Federal Hearings
- Royal Commissions

OBSI's exceptional work should not remain on a shelf. It should help make Canada a better place to invest and live.

Use of Root Cause Analysis (RCA)

OBSI should employ robust RCA capabilities to identify and remedy any recurring systemic problems. Effective RCA should allow OBSI to find and tackle the root causes of problems (through a process change or improvement). OBSI must also have appropriate governance and processes in place to ensure RCA provides strategic purpose, accurately identifying recurring or systemic issues.

Resolution of systemic issues

The prevailing systemic issue protocol is an open loop system with little evidence it does anything material to protect/compensate financial consumers. A complete overhaul is needed. The CSA must provide leadership in formulating an effective protocol for resolving systemic issues in the best interests of impacted investors.

Mitigation practice

OBSI argue that the complainant has a responsibility to mitigate losses. Firms should have the primary responsibility to mitigate in order to stem losses arising as a result of the personalized advice they provide and charge for. This practice is wholly consistent with CFR best interests' obligations.

OBSI supporting mediocrity?

In its response to a CISO rule consolidation consultation OBSI said "90 days is reasonable". CISO is using this to effectively say "no change to CISO Rules to harmonize with the higher AMF standard". OBSI is trying to say "but if you read the substance of the comment, it says that most complaints should be resolved in 60 days". Best OBSI not to make such controversial statements. RE <https://www.obsi.ca/media/ayrnrgke/obsis-response-to-ciros-request-for-comments-on-rule-consolidation-project-phase-5-june-2025>. CISO 90 day complaint handling rules are not in the best interests of complainants or in accordance with international standards. OBSI should leave such matters up to regulators.

Access to Spreadsheets

OBSI should be required to share its loss calculation spreadsheets with complainants. This will permit complainants to participate fully in the dispute resolution process- a basic component of fairness.

Ban Confidentiality Agreements in dispute settlement

In 2023, the Canadian Bar Association (CBA) passed a resolution to discourage the use of NDAs to silence victims¹ and whistleblowers in cases of discrimination, abuse and harassment. The CBA resolution also recommended lawyers advocate for legislative changes to prevent the misuse of NDAs. The CBA resolution promotes the fair and proper use of NDAs to protect intellectual property (Resolution 23-05-A).

NDA's allow bad actors to continue their behaviour with impunity. Prohibiting victims or whistleblowers from telling their story or discussing their experiences can negatively affect their mental and physical health and could prevent them from being able to seek support. In a survey, 93% of people who signed an NDA reported an impact on their mental health. NDA's can also disadvantage whistleblowers.

Many Firms gag harmed investors if they seek compensation for undue losses. This is in the Firm's best interests, not the client. The government of Canada is taking concrete action to curtail the use of NDA's within government agencies. *Public Bill (Senate) S-232 (45-1) - First Reading - Can't Buy Silence Act* - Parliament of Canada <https://www.parl.ca/documentviewer/en/45-1/bill/S-232/first-reading> The CSA should do the same for Registered Dealers- the faster the better.

Arbitration to deal with out-of-mandate cases

In accordance with Part 6 of OBSI's Terms of Reference, complaints that are excluded from OBSI's mandate are cases that relate to:

- the general interest rate and risk management policies and practices of a Firm.
- the pricing of financial services by a firm.
- the scale of fees or charges generally applicable to financial services offered to customers of the firm in similar circumstances.
- the commercial judgment of a firm.

OBSI can, at least in principle, investigate whether the process by which a Firm implemented its self-serving policies and practices or made or maintained a commercial judgment was biased, incomplete, not in accordance with the Firm's policies and procedures or otherwise was unfair. Accordingly, I do not think it is inappropriate for the Canadian Investment Regulatory Organization (CIRO) Arbitration Program to allow claims under \$350,000 on the basis that they fall outside OBSI's restricted mandate criteria.

Increase the \$350K compensation limit

Using the Bank of Canada inflation calculator, the original comp limit would come to \$ 651,905 today. It is hard to explain why OBSI and the JRC have left the compensation limit alone for so long. At the same time, legal expenses have risen and Canadian courts are at record levels of logjam. I recommend the limit be increased or at least it be periodically adjusted to keep up with complainant needs. With a binding decision mandate, I would expect a steep rise in high dollar complaint volumes. It is my understanding that Canada lags comparable international jurisdictions.

Internal Dispute Resolution Service (IDRS) impact on investor rights

OBSI investigations do not impair legal rights once the OBSI tolling agreement is in place. The real problem is that the complaint resolution design before OBSI is formally engaged can erode both investor bargaining position and legal options (limitation period is two years in most provinces). Delay can lead retail investors

towards accepting less in compensation, missing the 180 day OBSI escalation window, or allowing civil claims to become time barred. Tolling of complaints should commence upon initiation of the non-independent IDRS. It would be even better if Dealer IDRS appeals were totally eliminated and independent OBSI left to handle appeals. In any event, the IDRS process should be contained within the 90 calendar day envelope.

Conclusion

The prevailing complaint resolution process relies on Dealer controlled processes that are ill-suited to addressing information and power imbalances between Dealers and retail investors. Complainants are navigated through multiple stages within the Dealer designed system, which causes investor confusion and complaint abandonment. This illustrates the ineffectiveness of these Dealer processes.

OBSI is caught in a pincer movement - the CSA's proposed deep oversight framework and oppressive Dealer complaint resolution practices will cause undue harm to Canadian retirement income security. Regulatory action is required.

OBSI's principal aim is to secure a timely, just and proportionate result, which brings closure for the complainant and the Firm. In many cases this decision will be the complainant's last opportunity to settle the dispute.

A further purpose of an external Ombuds review process is to identify the reasons why complaints arose and were not settled by the Firm concerned. This may highlight a weakness in a Firm's administrative or complaint-handling processes, which can be brought to the attention of senior management, who are accountable for making appropriate changes and improvements.

Based on all the evidence, I recommend that all provincial and territorial regulators provide OBSI the mandate to provide a binding decision on complaints within its mandate. Saskatchewan and New Brunswick have already demonstrated leadership. Delaying or weakening these reforms will only harm investors and further erode trust in the financial services sector and its regulation.

Best regards, Eva Krasa