

April 06, 2026

Sent via email

Consultation: OBSI Independent External Review

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

Attention: Mr. Phil Khoury, Lead reviewer
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Over three decades, OBSI have assisted almost 200,000 Canadians with their inquiries and investigated almost 30,000 cases, resulting in over \$50 million of compensation (\$1,667 per case average). In 2025, 27% of OBSI consumers gave OBSI services a favourable rating and would recommend their service while 20% were satisfied with the outcome of their complaint.

OBSI is a necessary and critical component of the Investor Protection in Canada. I put forward some ideas to make it more robust, resilient and user friendly.

For the vast majority of Canadians, OBSI is the last line of defence, given the high cost, stress and time-consumption of civil litigation against the Banks.

Please find below my comments:

1/. Consultation Response Time

The amount of time provided to respond to this consultation was just 37 days including Good Friday. This short period favours Participating Firms (PFs) to the detriment of individual investors. In future, the needs of Main Street Canadians should be taken into account.

2/. Board composition

At least one Director should have first-hand experience in providing investment advice and/or complaint resolution. No Community Directors should have an employment record with industry participants, PFs or their law Firms.

3/. Profile

The OBSI could be more visible - appearances on CBC, CTV, BNN and other traditional media, would increase consumer awareness. The benefits of using OBSI should be stressed. The CDIC TV ads are a good example of an attention getting ad.

4/. Use OBSI definition of complaint within the investment industry

“Complaint” means an expression of dissatisfaction made by a Customer about the Provision of a Financial Service in Canada by a PF, or a Representative of a Participating Firm, made (a) in writing; or (b) verbally. Standardization will

ensure that all entities involved in complaint resolution use the same definition of *complaint*. I assume this includes former clients.

5/. Loss calculation methodology

The Opportunity Cost Approach is fair and globally recognized as a Best practice for advised clients. The client should be put in the position she/he would be in if the proper advice had been provided. Resolving the complaint in the best interests as in other aspects of the Client Focussed Reforms is essential. If this were the standard endorsed by the CSA, there would be almost no refusals or low-ball offers. The relationship between OBSI and Participating Firms would dramatically improve and client trust in regulation would soar.

6/. Caution needed here

OBSI is exploring ways that they can work with PFs to encourage proactive settlement – including the proactive settlement pilot project they've recently launched. Given how Dealers often negotiate, I urge extreme caution.

7/. Reconsideration Process

How many requests occur each year? What percent of reconsideration requests result in a reversal of a prior decision? What is the number one reason, complainants request reconsideration?

8/. The OBSI accepts Non-Disclosure- Agreements. (NDA) Why?

OBSI accepts the use of NDA' s. All bank and IA Advisor interaction must be transparent. That is a part of the KYC Agreement. This is a part of the agreement by the Bank/ IA .. to always do the best for the Client. The NDA puts the case in a state where the investor must not use external advice or release any information about transactions.

The bank has all kinds of staff to help to resolve the case. MBAs. Lawyers. CA etc. The investor may not have the skill-set to explain his case. An NDA only protects the BANK/ IA from any financial claims. An NDA discourages investors from claiming for losses.

The OBSI should not just focus on what is best settlement for its Bank/ IA member. The OBSI should focus on what is best settlement for investor who is not a financial expert.

9/. Productivity measurement

The 2025 OBSI budget amounted to \$22,191,304 and 5084 cases were settled for an average cost per complaint of \$4,364.00 The average compensation for banks was \$3,659 and for investments was \$9,207.00. The total compensation provided to consumers in 2025 was \$5,761,727.00 .OBSI could develop a set of metrics to measure and continuously improve productivity.

10/. OBSI should re-establish Consumer and Investor Advisory Council

This Council provided laser-focussed input to management and the Board. The short semi –annual TEAMS meetings are not effective in driving change or productivity. The Council would be a potent adjunct to CSA Oversight. This Council will help counter the power and knowledge imbalance between investors and Participating Firms.

11/. OBSI should not support mediocrity

OBSI is on record as finding a 90-day resolution time as being reasonable for its Participating Firms. It takes this position knowing this lags international standards and the AMF cycle time of 60 days.

12/. Failure to identify Systemic issues

OBSI should be asked to explain why it identifies so few systemic issues (just 3 in 2025) among Participating Firms compared to other ombudsman around the world.?

For example, OBSI has not identified flawed complaint handling as an issue despite known deficiencies in risk profiling, conflicts-of-interest, disclosure failures and the use of unregulated Appeals entities used by bank-owned Dealers. Bank -owned Dealers and banks should be prohibited to subcontract Appeals to an affiliate that is not a registrant of a CSA or CIRO Firm and OBSI should not accept response letters from their investigators.

13/. Speed up reaction time

In September 2025, OBSI launched a public consultation on their loss calculation methodology for complaints involving unsuitably sold illiquid exempt market securities. This consultation was recommended in the **2021** independent expert external review.

14/. Make Name and Shame work

Assuming it will be years before Governments approve some version of a binding decision mandate, I recommend that in the interim, OBSI issue a News release for every refusal or low- ball settlement (a settlement where the Firm fails to respect a OBSI decision). This approach will cause Participating Firms concerned about reputation to think twice about rejecting or low-balling an OBSI recommendation.

15/. OBSI requires a binding decision mandate

Powerful arguments have been provided to justify a binding mandate. A binding mandate will give investigators leverage in negotiations and cause Firms to be professional and fair in their handling of client complaints. This is a win-win for all participants – satisfied clients/ retention of clients.

16/. Assistance to industry participants

OBSI should provide periodic Guidance to Participating Firms on what is regarded as high quality, fair complaint resolution.

17/. Investigation Scope

This would include issues identified by OBSI during an investigation, even if not raised initially by the complainant. The MOU should reflect this capability.

18/. De-banking

OBSI membership rules should prohibit Participating Firms from de-banking a client simply because she/he filed a complaint.

Also refusing to sign an NDA should not be a cause to de-bank an investor.

OBSI should ensure that any complainant with an outstanding complaint at the time of de-banking can rest assured that OBSI will deal with the complaint.

19/. Participating Firm withdrawal rights

OBSI's membership rules should prevent a Participating Firm withdrawing an offer if a complainant chooses to use OBSI services.

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