

# INVESTOR ADVISORY PANEL

April 24, 2026

Attn: Phil Khoury re: OBSI review  
Email: [review@crkhoury.com](mailto:review@crkhoury.com)

## **Re: OBSI Independent External Review**

On behalf of the Ontario Securities Commission's Investor Advisory Panel (the "Panel"), we wish to thank you for this opportunity to comment on the role that the Ombudsman for Banking Services and Investments ("OBSI") fulfills in the Canadian financial services system and in the community generally (the "Consultation").

The Panel is an initiative of the Ontario Securities Commission ("OSC") to ensure investor concerns and voices are represented in the OSC's policy development and rulemaking process. Our mandate is to solicit and articulate the views of investors on regulatory initiatives that have investor protection implications.

### Overview

The Panel would like to extend our gratitude for the opportunity to speak with you as part of the Consultation process. We are providing these written comments to highlight the key points from that discussion and further contribute to the Consultation.

The Panel believes that OBSI serves an important role in the Canadian financial services system. We consider a fair, efficient, timely, independent, accountable, and accessible dispute resolution service to be an essential element of an investor protection framework. Furthermore, investor redress is critical not only to investor protection, but the capital markets overall. In our view, investor confidence is bolstered by effective investor protection and redress, and is necessary for vibrant and thriving capital markets.

OBSI's role encompasses more than investigation of complaints. Many investors seeking redress face numerous challenges, including a lack of knowledge related to their complaint (both procedural and substantive), fewer resources than investment firms – including barriers to retaining counsel – and the time and effort required to navigate the process without legal representation. We believe that OBSI's role in assisting complainants articulate their complaint helps to address this power imbalance, and that OBSI fulfills this role effectively without compromising its neutrality as a decision-maker.

OBSI's role is not only important to retail investors, but to the industry and the financial system. OBSI has a wealth of data collected through its work, and publishes data, statistics, case studies and special reports, which provide meaningful insight into the issues and challenges investors are facing. OBSI's Ombudsman and CEO recently noted that OBSI considers sharing "the insights from [its] work to help ensure a fair, effective and trusted financial services sector" to be an important part of its mandate. With additional information and insights from OBSI, firms can work to address common issues and complaints, and may

be able to resolve complaints quickly and efficiently without the additional time and expense of civil litigation.

### Binding Authority

The Panel has frequently recommended binding authority for OBSI, and we continue to support the OSC in its efforts to move the binding authority initiative toward completion and implementation. Indeed, the Panel has been recommending that OBSI be granted binding authority since 2012. Given high demand for OBSI's services, the increasing cost of civil litigation, and the issues that can arise in the current framework (including low-ball offers by firms and pressure on complainants to accept such offers), we feel that binding authority is long overdue. The Panel also believes that any opposition to binding authority lacks perspective. The aggregate of OBSI's recommendations made last year with respect to its securities mandate was less than \$6 million – a drop in the bucket given the size of the industry.

The issue of binding authority has been addressed in prior external reviews of OBSI. The independent review in 2006 noted that OBSI's lack of binding authority was in contrast to its counterparts in other jurisdictions, and the reviews in 2011, 2016 and 2021 all recommended that binding authority be granted. Moving this long-standing issue to a close will benefit investors, firms, and the markets as a whole. Implementation is also important to ensure that Canada's investor protection framework is consistent with comparable jurisdictions and international best practices and principles (such as the G20/OECD High-Level Principles on Financial Consumer Protection). Most critically, as noted in the 2011 review, "the system is unworkable if participating firms can simply reject an Ombudsman decision".

The Canadian Securities Administrators' ("CSA") most recent proposal for binding authority included details of the regulators' proposed oversight of OBSI. As we noted in our comments on that proposal, we recommend that the oversight framework focus on binding authority, and be proportionate to the nature of the role being played by OBSI, and its 30 years of experience assisting complainants, answering inquiries, and providing dispute resolution services.

We recognize that binding authority cannot be granted without legislative action. Accordingly, we urge the legislatures of Ontario and other Canadian jurisdictions to pass the necessary enabling legislation without delay, so that the CSA's proposal for binding decision-making authority can be implemented as soon as possible. We are concerned that Ontario has not yet proposed draft legislation, and question the delay in doing so; the proposal is not a new issue and we believe that the legislative requirements are relatively simple. Passing the necessary legislation will provide benefits across the industry and the markets, not only for aggrieved investors. If investors lack confidence in the dispute resolution system, they may choose to invest in other jurisdictions or markets, or not invest at all. This will be a loss for the industry and the markets, as well as efforts to enhance capital formation. Although OBSI's recommendations to date are small relative to the markets overall, the fact that OBSI does not have binding authority calls Ontario's principles of access to justice, integrity and fairness into question.

## Public Service

As noted in the overview, the Panel believes that OBSI's role in the financial services system and the community extends beyond dispute resolution. By virtue of its mandate, OBSI is well-positioned to share information about trends and emerging issues with the industry and regulators. Shedding light on recurring failures, "repeat offenders", and trends across complaints that point to systemic issues, as well as bringing attention to good practices, is valuable to investors, firms, and the markets. Sharing data and information can enhance investor protection and assist the regulators in policymaking and enforcement matters. This practice can also improve efficiency, if the regulators (or industry members) are able to introduce measures that can address issues leading to multiple similar complaints. The importance of identifying and reporting on systemic issues has been discussed in each external review. The 2022 review noted the limitations of the current systemic issue reporting system, and recommended expanding this element of OBSI's mandate. The Panel notes that addressing systemic issues is an important service provided by OBSI, and the practice should continue. Effective identification and reporting may improve firm practices and lead to fewer future complaints, and can also lead to regulatory enforcement actions, as demonstrated by data from the Australian Financial Complaints Authority ("AFCA").

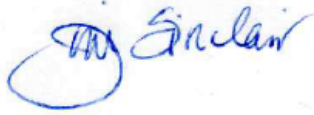
The Panel also believes that OBSI's role in the community could be enhanced by taking additional measures in furtherance of investor protection:

- a) the dispute resolution process should be clear and OBSI's services should be advertised so that investors know where to turn if they have suffered a potentially compensable loss;
- b) considering that binding authority, if granted, will be introduced on a rolling basis, OBSI should retain its power to "name and shame" firms that make low-ball offers;
- c) the use of non-disclosure agreements ("NDAs") in the context of settlements should be prohibited or limited. Given the power imbalance between firms and complainants, the Panel believes that complainants may feel they have no choice but to sign an NDA to receive compensation; and
- d) OBSI should assess whether the stakeholder involvement efforts are working effectively and as intended, such that OBSI is informed of current investor challenges and concerns.

Finally, the proliferation of fraud and scams is a pressing concern for retail investors. The federal government plans to develop a national anti-fraud strategy, which may include a dispute resolution framework to address fraud. OBSI's extensive experience could be valuable in any such initiative. We also note that the AFCA recently appointed a Chief Scams Officer, a new role that has been created at the AFCA to establish a dispute resolution scheme specifically for scams. Even if the proposed federal government's national anti-fraud strategy does not include a dispute resolution framework, the Panel suggests that any data arising from the national anti-fraud strategy could be helpful for OBSI in its work relating to fraud-related complaints.

Again, thank you for the opportunity to comment on the Consultation. We would be pleased to clarify or elaborate on our comments should the need arise.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Sinclair". The signature is written in a cursive style with a large, stylized initial "J" and "S".

James Sinclair  
Chair, Investor Advisory Panel