

Consultation: Request for comment - OBSI Independent External Review

Attention: obsireview@crkhoury.com.

I greatly appreciate the opportunity to provide commentary that could improve OBSI operations.

My Comments

Standardize Definition of “complaint”

The CSA, OBSI and CIRO all have different definitions of *complaint* causing investor confusion and system inefficiency.

Defining a complaint is crucial for setting clear, realistic expectations for both investors and staff, distinguishing actionable issues from general feedback. A standardized definition ensures consistent complaint handling, allows Firms to track trends for improvement, and helps foster trust while maintaining operational accountability.

Key Reasons for Defining a Complaint: (1) Sets Realistic Expectations: A formal definition prevents confusion, ensuring both parties understand what qualifies for a formal response versus routine service interaction; (2) Enables Consistent Handling; (3) Improves Organizational Performance: Tracking properly defined complaints helps identify recurring issues, leading to better service, increased efficiency, and improved client satisfaction; (4) Enhances Trust and Transparency; (5) : A clear definition shows the organization takes concerns seriously, creating a culture of accountability and openness and (6) Distinguishes Serious Issues: It helps in identifying high-risk or complex issues that require, immediate investigation or senior management attention.

I recommend the OBSI definition be the standard.

Consumer Interest Directors

These Directors should have first-hand experience with financial consumer complaint resolution.

Binding decision mandate

The need for a binding decision mandate is obvious. No more studies needed. The Oversight framework should ensure that OBSI maintains its independence and does not add excessive time or costs to the ombudsman complaint resolution process.

Limitation of mandate

Registered Dealers market and often provide to investors integrated portfolios, including, for example, Index- linked GIC's or Principal Protected Notes) as portfolio construction tools. Limiting OBSI's mandate to only part (securities) of the

advisory relationship creates an artificial distinction that disadvantages retail investors and reduces their access to OBSI.

Failure to deal with Recurring failures

If the CSA wants to continue to fail to identify, address and resolve recurring regulatory failures it should continue with OBSI's existing systemic issue protocol .If it wants to solve recurring failure mechanisms, it must eliminate the root causes of the failure. That is tough work but has a big payoff in reduced complaints and increased trust in the financial services industry and its regulators. This is not a decision for OBSI- accountability lies squarely with the Canadian Securities Administrators.

“Service” issues need to be addressed and defined

Many service issues are minor like a short delay in returning a call or delivery of an account statement. But some service issues cause real harm such as a lengthy account transfer time, poor assistance in the settlement of an estate, failure to act on instructions in a timely manner, downtime of online service without backup, privacy breach or abusive/ incompetent handling of complaints, defective KYC recording , flawed risk capacity assessment tool, sale of off-book “opportunities”, incomplete fee disclosure, failure to recommend the lowest cost fee product or service and incorrect tax advice resulting in a CRA monetary fine. Complaints about poor service causing investor harm should be investigated by OBSI.

OBSI's protocol for investigating portfolios with Seg funds is flawed

Where OBSI receives a complaint that involves a mix of securities and segregated mutual funds or other insurance investment products, OBSI will refer the investor to OLHI in writing, with a copy to OLHI, within two (2) business days of OBSI becoming aware that the investor's complaint involves segregated funds or other insurance investment products.

The investor will be asked to pursue their complaint with respect to segregated funds or other insurance investment products through OLHI. OBSI will proceed with its review of the investor's complaint with respect to only the securities involved in the complaint.<https://www.obsi.ca/media/o45dryx5/protocolforthehandlingofinvestorcomplaintsinvolvingsegregatedfunds.pdf> This is wholly inconsistent with modern portfolio theory and is unfair to complainants and financial advisors. I recommend the protocol be amended so that it is fair to complainants and professionally responsible.

Eliminate Confidentiality Agreements

Confidentiality Agreements are a pox on the system. They protect the Dealer from reputation damage – it is the price paid so that a harmed investor can get the money owed paid out. Free speech is shelved. The victim cannot inform friends, neighbours and family similarly impacted by the wrongdoing. The victim cannot even discuss with a spouse or mental health professional. If one wanted an example of something that is

not in the public interest or the client's best interests, NDA's (Gagging Orders) would lead the pack. Ban NDA's ASAP.

Regulatory review of refusals and low ball settlements

Refusals and low- ball settlements are a gold mine for regulators. They are a rich source of information concerning the practices used by OBSI and regulated Firms. By analyzing disagreements, the CSA may , for example, uncover Firm or OBSI misunderstanding of regulations, unclear regulations , Compliance issues at the Firm, need to update complaint handling rules by the applicable regulator, poor risk rating/ profiling practices and Firms breaching CFR requirements regarding conflicts- of- interest/ best interest standards, differing views on loss calculation methodology and a developing systemic issue .

The fact that there will be a regulatory review could itself moderate behaviour of participants. I therefore recommend that every refusal or low-ball settlement be reviewed by the applicable regulator (or an independent reviewer) and either a change made in regulation, clarification of rules or other tailored changes made so that the chances of recurrence are materially reduced.

That is complaint resolution at its best- resolving complaints so that future complaints are prevented by understanding the root causes. The JRC should ensure this occurs as a regular part of their Oversight activity.

Dealer complaint handling 20th century legacy

CSA and CIRO complaint handling rules are antiquated, in need of an overhaul. Until they are updated, the CSA should provide Guidance on expectations. A good example would be *Good and Poor Practice on identifying and rectifying harm*: FCA <https://www.fca.org.uk/publication/finalised-guidance/fg26-2.pdf> Another Guide might be *Your complaint examination obligations* | AMF <https://lautorite.qc.ca/en/professionals/obligations-and-administrative-procedures/complaint-examination/your-complaint-examination-obligations> Firms should have robust Root Cause Analysis capabilities to identify and eliminate any recurring systemic issues. The recent introduction of modern AMF complaint handling rules could be a benchmark- it employs a 60 day response time vs. 90 days for CIRO.

Dealer developed appeal process

Many Dealers have provided an appeals option alternative to OBSI. This option often has the effect of lower compensation than is fair and just, complaint abandonment and misdirection away from OBSI. OBSI should be THE appeal mechanism made available for investors. If the CSA permit CIRO Dealers to continue to offer a competitor to OBSI, it should have guardrails, accountability and be overseen by the CSA /CIRO. Under no conditions should this function be outsourced to an unregulated third party. All time spent with an "internal" appeal entity should stop the limitation time clock and have no impact on the 180 limitation period applied by OBSI.

Establish a grass roots advocacy group

Consideration should be given to formation of a group of informed people that will bring forth practical ideas to management for improving OBSI operations and protecting consumers.

Fair consultation times

I recommend that OBSI consult with Consumer Interest Directors before setting response times that favour Participating Firms. Individual Canadians cannot meet the short timelines that large Firms can. Their input is likely the most valuable to decision makers.

Impact of disgorgement practice

The OSC and CIRO initiative to provide collected disgorgement cash to victims could impact how OBSI will make its loss calculations. I recommend that OBSI disclose how it will make adjustments. In many cases, the amount disgorged will only reflect the amount collected from individuals salespersons as the majority of Hearings are against individuals.

Loss assessment standard

By design, OBSI attempt to place complainants in the same position they would have been in but for unsuitable advice. I suggest that this be the standard and that the JRC recommend that the CSA adopt this standard for the investment industry. This standardization will reduce conflicting results and is in the public interest.

Exempt market roundtable

Given the OSC's unrelenting drive to provide retail investor access to private equity and long- term asset funds, I recommend periodic Roundtables with EMD's interacting with OBSI on controversial topics. This interaction can be win-win and build trust.

I appreciate the opportunity to comment and hope the input is useful to you.

[Name Withheld]