

March 24, 2026

Consultation: OBSI Independent External Review

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

To: review@crkhoury.com

I welcome the opportunity to respond to this consultation.

OBSI has an established track record in fairly assessing complaints confirmed by multiple independent reviews. It is not perfect but far more advanced than the flawed processes used by most regulated Dealers.

In 2025, 27% of consumers gave OBSI services a favourable rating and would recommend their service while 20% were satisfied with the outcome of their complaint. When asked about overall service, 30% of consumers responded favourably. This suggests action is required. Thirty-five (35 %) of consumers who were dissatisfied with the final outcome felt that OBSI did not meet its service standard (for investments, this standard is 180 days). Sixty nine percent of investment cases did not end up with any compensation.

In 2025, four investment cases settled lower than OBSI's recommended amount. These cases involved recommendations for compensation of \$431,421 in total. The final settlement amount for these four cases was 40% (\$175,714) less than what OBSI recommended. From 2021-2025, for recommended amounts greater than \$100K a whopping 39% of cases were settled below what OBSI recommended. Overall, over the last 5 years, low-ball settlements resulted in 56% of the OBSI recommended amount being received by victims of financial assault.

Unfair and flawed complaint resolution isn't just statistics - Canadians have been harmed, sometimes with life-altering effect. Seniors, retirees and vulnerable clients are disproportionately harmed by industry malpractices. That is why reform is needed on a priority basis.

Some suggestions on reform:

The minimum period for consultations should be two months minimum to accommodate all categories of commenter. Comments received should be promptly posted on the OBSI website in a readily locatable position. Commenters who wish anonymity should have the right not to have their comment letters publicly posted.

Complainants sign a OBSI Consent Letter and an NDA with the Dealer that limits what can be shared, notwithstanding that the process falls within the OBSI process and as such complainants should be allowed to share with the OBSI's External reviewer. My recommendation is that any broker /financial institution NDAs

signed that used the OBSI processes should specifically name the OBSI as a party allowed by complainants to share all information with. The OBSI needs to provide guidance as to exactly what information can be shared with respect to the aforementioned with you.

I recommend OBSI be granted a binding decision mandate in order to discharge its role as an Ombudsman. Under a binding mandate, if the Dealer files an appeal, the resulting decision should be binding on the Dealer, but not on the complainant.

Beyond binding authority, I encourage the CSA to consider additional ways to better protect retail investors when they file a complaint to OBSI. This would include, for example, reducing the Dealer response period from the current 90 calendar days to 60 days. This would be consistent with recent developments in Canada and with international best practices. The longer the resolution period, the greater chance the investor will drop the complaint or settle for less than is fair.

A first time caller to OBSI will most likely have to leave a message as staffing appears to be below that needed for live communications. This does not lead to a positive first impression.

Change the format of the semi-annual consumer stakeholder TEAMS meetings (two hours) so that they lead to constructive dialogue. The last meetings' minutes ran to 26 pages but just 3 pages related to a discussion on consumer interests.

https://www.obsi.ca/media/20bptgqs/consumer-groups-meeting_nov2025_en.pdf
Consider changing to quarterly meetings or better yet, establish an Investor Panel.

The 2 year *cooling off* Period for "independent" OBSI Board members should be removed. Independent Directors should be persons with no prior industry affiliation.

Low-ball settlements should be treated as a refusal and exposed to Name and Shame public disclosure via a News Release (not just posting on OBSI website). Negative publicity can help incent Firms, especially banks, to settle fairly.

The absence of a structured forum for financial consumer advocacy has severely weakened the capacity for focussed investor input into OBSI's governance, policies, practices and decision-making processes. I highly recommend the establishment of an investor advocacy Committee as soon as possible.

I strongly recommend that this review examine case files related to investment cases settled below OBSI recommendations to see if there are distinct root causes for the low-ball settlements. That information would be powerful evidence supporting recommendations for changes at OBSI, CSA/CIRO and/or investment Dealers. Is it a difference in loss calculation methodology? Is risk tolerance rating different? Was KYC unclear/ contradictory? Did the Dealer require clients to self-mitigate loss? Are Dealer complaint resolution processes flawed?

The 2025 Annual Report is loaded with useful information demonstrating good transparency of cases. The Annual Report should however discuss what OBSI did to

address the specific investor issues raised in the consumer satisfaction survey. It would be a revelation if investment Dealers were required to publicly provide such detailed information of their complaint handling results.

Many Dealers have been sweeping uninvested cash from retail investor accounts without paying any interest. If clients complain, would OBSI take on the case if account opening terms disclosed Dealers were sweeping accounts clean? Would OBSI argue that sweeping is a permitted contract term (even if it breaches CFR conflicts of interest/Best Interests provisions) and declare it *out-of-mandate*?

OBSI should clarify in plain language what components of its recommendation Report, if any, could be used in the event the victim pursues civil litigation or CIRO arbitration. I assume the complainant could reveal the amount of the recommendation, the nature of the complaint and any information made public before the complainant signed OBSI's consent letter.

The CSA must formulate and disclose its process for addressing, resolving and compensating all investors impacted by a systemic issue identified by OBSI or by other means.

The Joint Regulators Committee should include the CSA IAP Chair or other Panel member to bring the investor perspective front and center.

The Joint Regulators Committee /Securities Commissions should share compliance review information with OBSI.

The CSA/OSC should develop a regulatory response when Dealers outright refuse or employ low-ball offers of OBSI recommendations. These practices call into question the Dealer's duty to act fairly, honestly and in good faith; it is a serious regulatory issue and must be treated as such. The response will provide regulators invaluable insight into why opposition to OBSI recommendations persists. Such a response could also lead to investor compensation.

OBSI should not publicly support multi- stage Dealer complaint handling. The more stages, the greater likelihood the complainant will succumb to complainant fatigue. The initial response to a complaint should be the final response. Appeals should go to OBSI which is independent, overseen by the CSA and free.

OBSI should not accept any investigation report that is conducted by an individual not employed by a registered Dealer.

External reviews should be more frequent than every five years, given rapid changes in govt. policies, products, distribution, technology and the impact of AI. I suggest a minimum of three years.

I recommend retention of the six-year limitation period for consumers to raise complaints, starting from when they knew or ought to have known about the issue. The six-year period was recommended by an external review in 2012 and adopted

in 2013 to better serve investor needs compared to a shorter (e.g. 2-year) period, which might deny justice to investors with complex, delayed-discovery claims. The rationale for this specific timeframe centers on balancing consumer protection with fairness to financial Firms. It is fair to retail investors to have a reasonable amount of time to discover a problem, especially if it relates to complex investment suitability issues. In 2025, there were 13 investment cases received outside of the 6 year limitation period. In the U.K., there is a 10-year time limit for taking complaints to the Financial Ombudsman Service (FOS), with the FCA able to grant exceptions in limited circumstances.

In order to speed up complaint resolution, OBSI should consider applying Artificial Intelligence. See *5 Ways to Use AI for Customer Complaint Management*
<https://www.caseiq.com/resources/5-revolutionary-ways-to-use-ai-for-customer-complaint-management>

While OBSI accepts that releases and NDAs, initiated by its Participating Firms, can be a reasonable and sometimes helpful part of the settlement process, investor advocates argue otherwise. Some of the terms are onerous- one cannot tell a spouse or mental health provider. The only beneficiaries are wrongdoers associated with the Participating Firm. Upon signature, wrongdoing could continue harming others who cannot be informed of the resolution of the complaint. NDA's should be used to protect trade secrets, not wrong-doers who have harmed investors. CARP, with 250,000 members, takes a decidedly negative view of NDAs
<https://www.carp.ca/our-advocacy/investor-protection/> 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. The negative impact on seniors and retiree health is a very high price to pay.

Here is a sample clause from an NDA:

IT IS FURTHER UNDERSTOOD AND AGREED that the aforementioned payment by the Releasees to the Releasers is not and shall not be construed as an admission by the said Releasees of any liability whatsoever, and such liability is expressly denied.

The documents are legalistic, overly broad, one-way and remove any semblance of fairness from the complaint resolution process. NDAs are non-negotiable- take it or leave it. There is a huge imbalance of power and knowledge.

Without a ban on NDAs, the only alternative for complainants is litigation. Civil litigation is expensive, stressful, time consuming and exhausting making it a difficult (and unlikely) choice especially for the average retail client. This is no way to run a modern complaint resolution system or resolve complaints in the best interests of clients. Non-disclosure Agreements (Gag orders) should be prohibited as part of settlement Agreements with Dealers.

Misleading titles such as *Financial Advisor (FA)* cause investors to have more trust in salesperson competency than is warranted. This misrepresentation can lead to increased client complaints. The CSA and CIRO should impose robust competency

requirements for the use of the prestigious FA title.

OBSI and the CSA should be required to explain why the 2021 Puri Report recommended systemic issues protocol was not implemented.

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 on how OBSI will evaluate complaints and determine monetary or other losses. This interaction will increase understanding between the parties and reduce disharmony.

Bottom line

I sincerely hope that my suggestions will be considered in your final Report.

Multiple actions are required to repair the broken complaint resolution system. There is now a wonderful opportunity here for the CSA to demonstrate that it wants to protect investors, foster fair capital markets, and promote investor/consumer confidence. This is an opportunity that should not be missed.

Respectfully submitted

[Name Withheld]