



INVESTOR PROTECTION CLINIC

4700 Keele St.
Toronto ON
Canada M3J 1P3
Tel 416 736 5538
IPC@osgoode.yorku.ca

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Mr. Phil Khoury
CRKhoury (CRK)
review@crkhoury.com

Re: OBSI 2026 External Review Public Consultation

The Osgoode Investor Protection Clinic (the “IPC”) appreciates the opportunity to provide comments in connection with the 2026 external review of the Ombudsman for Banking Services and Investments (“OBSI”).

By way of background, the IPC is the first clinic of its kind in Canada and is dedicated to providing free legal advice and services to retail investors across the country. Since launching in 2016, we have worked with a wide range of clients who have suffered harm in the financial sector, from seniors whose advisers mismanaged their life savings intended for retirement to low-income investors who were recommended unsuitable leveraged products. We work with vulnerable retail investors who need assistance in seeking redress but cannot afford a lawyer. The IPC also serves as a “Living Research Lab”, collecting anonymized client and case data to inform public policy development and identify emerging trends in real time.

We work directly with individuals navigating disputes with OBSI-participating firms, including through complaints brought before OBSI. OBSI is one of the most common recovery pathways for the clients we serve, and we therefore have a strong interest in ensuring that its processes are effective, accessible and responsive to the needs of vulnerable investors.

We believe this experience provides a unique and practical perspective on OBSI’s services, and we are pleased to bring the voice of our clients to this external review. In the interest of brevity, we have focused our comments on those questions where we believe we can add the most value.

More information is available online about [our clinic](#), including our [annual reports](#) and [newsletters](#).

We appreciate your consideration of our comments.

Sincerely,

Alison McClean, Student Caseworker
Jamie Lynn Galley, Student Caseworker
On behalf of the Osgoode Investor Protection Clinic



Public Awareness and Accessibility

1. Do you think that the OBSI presence is sufficiently well known in Canada?

In our experience, a persistent barrier is that many retail investors are simply unaware of what OBSI is and what role it plays in resolving disputes with financial institutions. This is particularly true for our clients with lower levels of investment knowledge: since the IPC's inception, 64% of our clients have self-identified as having low or no investment knowledge.

Although we acknowledge the important role that participating firms play in raising awareness about OBSI and its services, we believe public awareness could be improved through the development of other awareness-generating initiatives. For example, via targeted, multi-channel outreach, with particular attention to communities that may face additional barriers to access, including newcomer populations, seniors, and those who primarily access information in languages other than English or French. We recommend that OBSI continue to enhance its efforts to reach broader audiences.

4. Is OBSI making sure that its rules do not unfairly exclude consumers from having their complaints considered?

We recommend that OBSI adopt a ten-year limitation period. The current six-year period can operate unfairly for individuals who rely on OBSI as their only affordable avenue for redress, particularly where barriers such as limited investment knowledge literacy delay the recognition of harm.

Challenges associated with limitation periods are especially pronounced for long-term financial products where issues may not become apparent for many years. For example, products such as retirement portfolios are designed to be held over extended periods and issues with performance or suitability may not become apparent until a later time. Investors are often encouraged to adopt a long-term perspective and rely on professional advice which can reasonably delay the discovery of harm.

These challenges have been recognized in other jurisdictions. In the United Kingdom, the HM Treasury has acknowledged that limitation periods for the Financial Ombudsman Service ("FOS") complaints must be balanced against the needs of consumers with longer-term products, "where knowledge of the cause to complain may not emerge until a significant amount of time after the event".¹ FOS and the Financial Conduct Authority ("FCA") have also recognized that a fixed longstop may not be appropriate for products that consumers do not monitor regularly.² Following a public consultation, the government of the United Kingdom confirmed its plan to legislate an absolute limitation period of 10 years with discretion of the FCA to make exceptions to the time limit.³

¹ HM Treasury, "Review of the Financial Ombudsman Service: Consultation" (6 March 2026), online: <<https://www.gov.uk/government/consultations/fs-sector-strategy-review-of-the-financial-ombudsman-service/review-of-the-financial-ombudsman-service-consultation-accessible>>.

² Financial Conduct Authority & Financial Ombudsman Service, "Consultation Paper: Modernising the Redress System" (July 2025), online: <<https://www.fca.org.uk/publication/consultation/cp25-22.pdf>> at paras 2.43, 2.47.

³ HM Treasury, "Review of the Financial Ombudsman Service: Consultation response" (March 2026), online: <https://assets.publishing.service.gov.uk/media/69b4301efdbfc4d58fc8cf64/Consultation_Response_FOS_Reform_March_2026.pdf> at paras 1.6, 2.71–2.72.

5. Does OBSI sufficiently assist consumers to make a complaint?

The OBSI complaint process can present challenges for retail investors. Many of the vulnerable clients we serve face intersecting barriers, including limited financial literacy and investment knowledge and limited proficiency in English or French, as well as unfamiliarity with the Canadian financial system. These barriers can make it difficult to identify issues, assemble the supporting documentation, and meet the prescribed timeframes of the OBSI process. We believe these challenges are compounded when dealing with investments with longer time horizons.

Operational service delivery

6. Do you have feedback for the Review about the OBSI's operational effectiveness in: (f) explanation of OBSI decision-making?

We believe that OBSI could do more to provide harmed individuals with the information they need to understand whether their complaint may be time-barred. For example, in its 2025 Annual Report, OBSI disclosed that 36 banking cases and 13 investment cases were closed due to the limitation period, without providing helpful context on how these determinations were made.⁴ As a result, some retail investors may be left unable to assess their eligibility before investing time and resources in the complaint process.

Encouraging good practices by banks, credit unions and investment firms

8. Does OBSI have the authority appropriate for its role?

We believe that OBSI's current non-binding framework does not fully equip it to fulfill its mandate. The IPC has consistently advocated for binding authority for investments for OBSI since our inaugural annual report in 2018⁵ and continues to do so today. Binding authority would better align OBSI's function with its purpose, increase access to justice, and align with international best practices. We acknowledge and welcome recent regulatory efforts in this direction.

Binding authority would enhance OBSI's ability to resolve disputes in a fair and effective manner. Based on our experience with our clients, the absence of binding authority can result in low-ball settlement offers that do not reflect OBSI's recommendations. In addition, OBSI's own data shows that between 2021 and 2025, 29 cases resulted in compensation below the recommended amount, representing a shortfall of \$824,134 to consumers.⁶ In these circumstances, clients may spend months navigating the OBSI process only to receive an undervalued settlement offer from the firm, undermining confidence in the fairness of the financial system.

Binding authority would also improve access to justice for individual complainants. Under the current framework, individuals who are dissatisfied with a firm's settlement offer have limited recourse beyond civil litigation, which is costly and time-consuming. This means that individuals who cannot afford a lawyer, or whose claims are too small to justify litigation, have no choice but to accept a lower offer or risk receiving nothing at all.

⁴ OBSI, "Annual Report 2025" (12 March 2026), online: <<https://www.obsi.ca/media/r5edfh4r/obsi-ar-25-en-final-mar-12-2026.pdf>> at 57.

⁵ IPC, "Annual Report 2018" (6 September 2018), online: <<https://www.yorku.ca/osgoode/ipc/wp-content/uploads/sites/594/2022/09/2018-IPC-AnnualReport-Final.pdf>> at 5.

⁶ OBSI Annual Report 2025, *supra* note 4 at 58.

Binding authority would align OBSI with its international peers, including Australia, New Zealand, and the United Kingdom. Adoption of a similar model in Canada would strengthen consistency, fairness, and confidence in the financial system.

Additional comments related to the proposed framework for binding authority

We wish to provide further comments on the proposed framework for binding authority presented by the Canadian Securities Administrators. While we welcome these efforts to strengthen investor protection, we believe the framework could be improved by: (i) removing the \$75,000 threshold for stage two external review; (ii) increasing the maximum claim limit of \$350,000; and (iii) giving further consideration to the role of judicial review.

Removal of the \$75,000 threshold for external review

Under the proposed framework, complainants would only have a right to external review if their claim exceeds \$75,000. This monetary threshold should be removed as it prioritizes operational over fairness to complainants and risks creating a two-tiered system in which access to justice may depend on the size of the claim rather than its merits.

The proposed threshold is significant in practical terms. Based on the most recent available data (2023), the median income for Canadians aged 25-54 years is \$57,400, and for those aged 65 and older it is \$37,600.⁷ A threshold of \$75,000 therefore exceeds one year of income for many working-age Canadians and represents about two years of income for many older individuals and retirees.

Maximum claim limit should be increased

The maximum claim limit should be increased to at least \$500,000 and indexed annually to inflation. OBSI's current monetary cap of \$350,000 has not been adjusted since 1996⁸ which has eroded the economic power of OBSI, and by extension complainants, over time. Canada's current limit is also low relative to international comparators, including Australia, New Zealand, and the United Kingdom. Increasing the cap would better reflect the scale of modern financial losses and enhance the practical utility of OBSI's process.

Judicial review

Further consideration should be given to judicial review under the proposed framework. At present, it is unclear who the responding party would be to applications for judicial review. It is our view that individual complainants should not be required to respond to firms' applications for judicial review, as this would expose them to costly and time-consuming litigation against participating firms. While OBSI could be positioned as the respondent party, its current terms of reference provide that OBSI "will not act as an advocate for participating firms, complainants or any other person".⁹

⁷ Statistics Canada, "Income of individuals by age group, sex and income source, Canada, provinces and selected census metropolitan areas" (1 May 2025), online: <<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1110023901>>.

⁸ Capital Markets Modernization Taskforce, "Capital Markets Modernization Taskforce Final Report" (22 January 2021), online: <<https://www.ontario.ca/document/capital-markets-modernization-taskforce-final-report-january-2021/26-modernizing-enforcement-and-enhancing-investor-protection>>.

⁹ OBSI, "Terms of Reference" (16 June 2022), online: <https://www.obsi.ca/media/be3nxtli/obsi-terms-of-reference-june-2022-amendments_en.pdf> s 4.1.