

APPENDIX 'A': SUMMARY OF WRITTEN FEEDBACK

In response to OBSI's consultation paper released May 10, 2012 titled *Summary of Public Comments Relating to OBSI's Suitability and Loss Assessment Process, and Request for Comments on Proposed Changes*, nine were submitted from investor advocates, participating firms, industry associations, and interested stakeholders. All comment letters have been posted on OBSI's website.

The following is a reference chart highlighting the issues raised during the comment period.

Proposed Change	Stakeholder Comments
<p>Use common indices as performance benchmarks in most suitable performance comparisons.</p>	<p>FAIR Canada does not support several of the proposed changes outlined in the Consultation. In particular, FAIR Canada does not agree with the proposal to use common indices as performance benchmarks in most suitable performance comparison calculations. Instead, we suggest that OBSI continue to conduct suitable performance comparisons based on the particular facts and circumstances of each individual case. Where there is compelling evidence of what securities the client would have invested in, FAIR Canada believes that OBSI should assess the consumer's losses based on a comparison of the performance of these securities with the performance of the unsuitable investment(s) that was recommended. Where there is no compelling evidence of what the client would have invested in, FAIR Canada agrees that the use of prescribed indices would be appropriate. – FAIR Canada</p> <p>In FAIR Canada's view, this proposal would be a step backward, toward a "one size fits all" approach; OBSI's current investor-specific approach to loss assessment is one of its strengths in investment complaint resolution. – FAIR Canada</p> <p>In the majority of cases there is no clear evidence of how the investor would have likely invested but for the unsuitable advice. In these instances, FAIR Canada supports the use of appropriate indices. We fully support OBSI's proposal to make the choice of benchmarks clearer and narrower and to apply them based on what would have been suitable for the investor in the particular circumstances of that investor's case. – FAIR Canada</p> <p>The methodology used in private settlements and court proceedings should not determine OBSI's loss assessment process. FAIR Canada believes that OBSI should make this professional advice public, in order to enable stakeholders to understand and evaluate the rationale for this recommendation. – FAIR Canada</p> <p>FAIR Canada supports the continued use of the investments clients would have purchased had there been suitable advice in the suitable performance comparisons where there is clear evidence of what the client would have purchased. – FAIR Canada</p>

We believe that the use of any index is problematic and not the best choice when looking for a suitability comparison. A mutual fund is better than an index because:

- If the fund is from the same family or proprietary group it will be what the client would have bought if suitably invested.
- Indexes are generally less diversified than mutual funds; e.g. the TSX Composite is not as diverse as a Canadian equity fund, the bond index does not behave like an Income fund etc.
- Calculations are more complex when using an index because costs have to be calculated separately. This is not the case if you use a mutual fund.
- If OBSI used mutual funds rather than any index you would not have the initial and on-going expense of a Bloomberg terminal.
- In the mutual fund dealer industry, mutual funds (not indices) have been generally used in suitability analysis; we see no need to change this.
- Indices do not behave like mutual funds; they can be more volatile than actively managed funds.
– Federation of Mutual Fund Dealers

We recommend that when considering a complaint concerning a mutual fund dealer account, OBSI compare the performance of the unsuitable mutual fund holdings with suitable mutual fund holdings. Suitable mutual funds may be funds from the same family, proprietary group or other suitable funds in the account. This approach would take into account what the investor would likely have done through the dealer, and be subject to the same fees, expenses and risks. – IFIC

We recommend that OBSI use a relative fixed basket of mutual funds to represent the returns for a particular risk category. As an illustration of how this approach might be implemented, for moderate risk funds sold through an independent dealer, OBSI could take the ten largest funds by assets sold through the independent dealer channel, ensure the fee structure matches up with the dealer's fee structure, throw out the best and the worst to remove anomalies, and average the returns of the remaining eight. The basket of funds could be reassessed periodically and substitutions made as deemed appropriate. We acknowledge that this approach would require more work at OBSI in establishing a performance benchmark, but it would have advantages in better approximating a diversified return that would be representative of the risk class and available to clients. – IFIC

We generally support the use of common indices as one of the performance benchmarks, as they can increase the consistency, predictability and efficiency of the loss calculation process. It is however, critical that fees and trading costs be factored into the index performance as proposed. This will help ensure that any assessment of loss will more accurately reflect the actual performance and return on an investor's portfolio. – IIAC

Further, clarification is required as to which indices will be used in which circumstances, and if OBSI staff will be provided with guidance on particular indices to be used in specific fact scenarios. It was unclear in the IROC/OBSI conference call on June 18, 2012 whether there will be some flexibility in applying the proposed common indices included in the powerpoint presentation. – IIAC

In order to ensure investors' portfolios are measured against the general market conditions rather than only the best performing indices, we recommend that where possible, staff use the average performance of 3-4 comparable indices. We also recommend that OBSI consider using the performance of funds in the same family of funds if they exist and are relevant. – IIAC

Using an index as a performance benchmark in situations where there are only isolated securities within a portfolio that are "not suitable" can lead to unfair results. This approach ignores the balancing effect of a portfolio approach and potentially substitutes it with a methodology that substitutes the lower performing or risky securities within a portfolio with more "suitable", higher performing stocks. We recommend that the indices only be used when most or all of the clients' portfolio is deemed "unsuitable". – IIAC

As we have stated in our previous submissions, it is important to recognize that using one loss calculation methodology in all cases may not be appropriate. We request clarification as to the general circumstances under which OBSI staff will use indices as a basis for loss calculation, and the factors that OBSI will consider when considering common indices in different case scenarios. We believe OBSI should only undertake such a calculation if and when the methodology used by the dealer in its calculation of the loss is unreasonable. We seek confirmation that OBSI will remain open to other loss calculation approaches that may be proposed by stakeholders as long as they are reasonable. – IIAC

Support using common benchmarks or if a financial plan has been prepared, the percent return target of the plan. – Kenmar Associates

In the extreme, advisors could now say to new investors not to worry about investment losses because there is a natural hedge against losses built into the complaint system. *"You will do no worse than the market if I make a mistake with an investment selection, because in Canada we use common indices to decide investor 'harm' in suitable performance comparisons."* – David McNabb, RBC Deputy Ombudsman

The OBSI proposal to use market indices rather than a GIC rate extension could be seen to be biased support generally to keep investors in markets and paying fees on portfolios fully invested in markets. – David McNabb, RBC Deputy Ombudsman

An appropriate benchmark worthy of consideration is a GIC rate (term appropriate) applied to the dollar weighted portfolio holdings for the period. – David McNabb, RBC Deputy Ombudsman

	<p>Deciding and using suitability by itself in Canada to redress civil liability (together an OBSI construct or method) mixes and uses concepts from administrative and civil law in a narrow and unsustainable way in my view. – David McNabb, RBC Deputy Ombudsman</p> <p>While we appreciate the simplicity of using an index based benchmark, we do not believe that this creates a comparable benchmarking method as mutual funds tend to be more diversely invested, and are actively managed. – PFSL Investments (Canada) Ltd.</p> <p>OBSI should compare the performance of the unsuitable mutual fund holdings with the average of a basket of mutual funds with a suitable risk profile and similar expense class as the funds in question. We have reviewed the Investment Fund’s Institute of Canada’s recommended methodology and agree with their recommendation in this regard. We would also be pleased to participate in any further consultations or a working group to develop an appropriate methodology. – PFSL Investments Canada Ltd.</p> <p>The use of any index is problematic and may not be the best choice when looking for a suitability comparison. A mutual fund is better than an index because:</p> <ul style="list-style-type: none"> • Indexes are generally less diversified than mutual funds • Calculations are more complex when using an index because costs have to be calculated separately. • Indices do not behave like mutual funds; they can be more volatile. <p style="text-align: center;">– Queensbury Strategies Inc.</p> <p>Indices are not appropriate performance benchmarks in many cases. – RBC Dominion Securities, RBC Direct Investing, Royal Mutual Funds Inc., and Phillips, Hager and North Investment Funds Ltd. (Hereafter referred to as “RBC”)</p> <p>Securities that are suitable for an investor may not always perform as well as the index benchmark. – RBC</p> <p>OBSI should be aware that the securities within an index benchmark may not be suitable for the investor at the relevant times and index benchmarks are not assessed or adjusted to reflect the asset allocation that is suitable for a given investor. – RBC</p> <p>Investors’ portfolios should be measured against the general market conditions. If indices would be used as performance benchmarks, we suggest that OBSI should use the average performance of three to four comparable indices where available. – RBC</p>
<p>Take fees and trading costs into account in all cases when making suitable performance comparisons.</p>	<p>FAIR Canada agrees that it is reasonable to adjust index performance for reasonable and appropriate fees or trading costs. FAIR Canada suggests that adjustments be made for the reasonable costs that would have been incurred in an index-investing strategy, such a low-cost, non-actively managed investment (for example, a low-cost ETF or index mutual fund), as opposed to a mutual fund with high fees and costs. – FAIR Canada</p>

FAIR Canada disagrees with the suggestion that embedded costs, such as the fees that are included as part of a mutual fund's management expense ratio (which will invariably include trailer fees paid to the firm/advisor providing the unsuitable advice), should be deducted. – FAIR Canada

FAIR Canada's opinion is that it would be unfair to infer that the consumer's suitable performance would be fairly represented by the performance of an index but that high mutual fund fees would also have been incurred. Similar fees and trading costs should be applied to ensure that the costs or fees are reflective of the benchmark used. – FAIR Canada

We do not have an issue with this point. – Federation of Mutual Fund Dealers

If a basket of funds approach is used, costs will not need to be separately calculated. – IFIC

We would appreciate if OBSI could clarify whether "fees and trading costs" include commissions, MER, back-end or deferred fees, redemption fees, switch fees, trailer fees. - IFIC

It is critical that fees and trading costs be factored into calculations when assessing investment performance. – IIAC

It would be appropriate for OBSI to specify the fees and trading costs that will be taken into account. These should include back-end or deferred fees, redemption fees, switch fees, and trailer fees. In addition to fees and trading costs, the suitable performance comparison should also take into account commissions (including front-end sales or load commissions) and MER. – IIAC

High fees, sales loads and trading costs should be taken into account when making comparisons. – Kenmar Associates

OBSI should specify the types of fees and trading costs it will take into consideration. This should include commissions, back-end or deferred fees, redemption fees, switch fees, as well as the management expense ratio as agreed between the participating firm and the investor. – RBC

<p>As a general rule, add interest on compensable losses only if an Investigation Report (a final report where we recommend compensation) is issued, but not add interest on facilitated settlements. Generally, interest on recommended compensation would be calculated from the date the investor complained to their firm and is intended to compensate the investor for not having access to the compensation during lengthy delays in resolving the complaint.</p>	<p>FAIR Canada proposes a different approach to calculating interest for loss of use than the approach put forward in OBSI's consultation. We suggest that OBSI include interest calculated from the fixed date for loss calculation to the time that compensation is paid to the complainant. In our view, our recommendation is more directly aligned with the intended purpose of awarding interest for loss of use, in that it compensates the consumer for the time they should have had use of their funds but did not. It is also consistent with the approach taken by the U.K. Financial Ombudsman Service. – FAIR Canada</p> <p>Consumers are unconcerned about the classification of the resolution of their case; consumers are much more concerned with how long it takes for them to obtain a fair resolution and receive compensation. – FAIR Canada</p> <p>Awarding interest for loss of use is an appropriate element of a compensation system intended to put the consumer in the position they would have been in but for unsuitable advice. In order to restore the consumer to such a position, interest should not be viewed as a penalty to the firm, but rather as an amount to which the consumer is entitled for the time they should have had use of the funds but did not. We note that the approach we recommend above is similar to the approach taken by the UK Financial Ombudsman Service. – FAIR Canada</p> <p>In the alternative to the above approach, FAIR Canada recommends that, where an interest payment on compensable losses is applicable, interest should be awarded if a complaint is not resolved (i.e. payment has been transferred to the complainant) within a prescribed amount of time from the date the complaint is made to the participating firm (for example, 90 days) rather than where an Investigation Report is issued. This would be a policy more closely aligned to the purpose of awarding interest, which is to compensate for the loss of the use of money, than the approach outlined in the Consultation. This approach would also incentivize firms to cooperate in reaching timely resolutions. – FAIR Canada</p> <p>We appreciate that the OBSI works with the parties to resolve complaints in a timely manner, however, if there is a delay at the OBSI interest should not be calculated for that period of time. – Federation of Mutual Fund Dealers</p> <p>We believe this change is acceptable only to the extent interest is not awarded where there is a delay in the process caused by OBSI or the investor. If the resolution of complaints is delayed beyond OBSI's published performance objectives, OBSI must identify the party responsible for such delays. – IFIC</p> <p>This strikes us as punitive. Adding interest to market based compensation effectively takes all risks out of investing and would unjustly enrich the complainant at the expense of the firm. We seek confirmation of the assertion of OBSI staff at the June 18 meeting, that interest will not be assessed in a way that results in double counting in respect of compensation where a model portfolio is used. – IIAC</p> <p>Although we do not support adding interest to losses measured by the notional portfolio and/or index approach, if such compensation is foreseen, it should be demonstrated that the firm is responsible for the delays and was not acting in good faith in its causing such delays. – IIAC</p>
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	<p>We agree with this. – Kenmar Associates</p> <p>This proposed change is acceptable only to the extent interest is not awarded where there is a delay in the process caused by OBSI or the investor. – PFSL Investments Canada Ltd.</p> <p>The addition of interest on such amount appears to allow investors to receive compensation beyond what the market would have provided. OBSI should not assess interest on compensable losses where notional portfolio approach is used. – PFSL Investments Canada Ltd.</p> <p>If there is a delay at the OBSI interest should not be calculated for that period of time. – Queensbury Strategies Inc.</p> <p>Participating firms should not be required to pay interest in respect of delays caused by OBSI or the investor and suggest that OBSI identify the party responsible for such delays in the investigation report. – RBC</p> <p>Interest on compensable losses should only apply in instances where notional portfolio approach is not used. – RBC</p>
<p>Implement a self-imposed limitation period of six years from the time when we believe the investor knew or ought to have known there was a problem with their investments.</p>	<p>FAIR Canada agrees that a limitation period of six years from the time when the consumer knew or ought to have known there was a problem with their investments is fair, provided that a subjective standard is used; that is, the standard of a reasonable person with the consumer’s characteristics, including knowledge, experience and vulnerability. – FAIR Canada</p> <p>It is unfair to vulnerable consumers, including persons with limited language skills, low financial literacy, and seniors who may have reduced mental abilities, to apply a limitation period without a full appreciation of these characteristics. – FAIR Canada</p> <p>Firms should also have an obligation to mitigate in order to stem losses arising as a result of the advice they provide. – FAIR Canada</p> <p>Rather than adopting one limitation period nationally we would encourage the OBSI to align with the statutory requirements in each Province to avoid any conflict or confusion. For your information the guideline used by regulatory authorities is seven years. – Federation of Mutual Fund Dealers</p> <p>We view OBSI’s proposed implementation of a limitation period for investor complaints to be a positive development. However, we also believe that OBSI’s limitation period should be consistent with the statutory limitation period in the investor’s province of residence. – IFIC</p> <p>It is important that it is well understood what criteria OBSI will use to determine when the investor knew or ought to have known that there was a problem with their investments. – IAC</p>

	<p>In applying the “knew or ought to have known” test, we believe it is important to consider the level of knowledge and engagement of the client. – IIAC</p> <p>In our view, the six year term appears to be an unreasonably long time to provide to clients to file a complaint once they know or ought to have known that there is a problem. – IIAC</p> <p>IIROC has a seven year retention requirement for many documents, which may result in difficulties in providing full documentation of the case. – IIAC</p> <p>It is unclear whether the six year time period applies to the length of time that OBSI can look back in respect of “unsuitable investments”. Once a complaint has been made, is there a limit on the number of years that OBSI can go back and investigate in respect of the investment in question? – IIAC</p> <p>We agree with this. – Kenmar Associates</p> <p>We would encourage the OBSI to align with a more standard guideline of seven years as used by the regulatory authorities. – Queensbury Strategies Inc.</p> <p>We recommend that OBSI impose a limitation period that is consistent with the statutory limitation period applicable to the investor. – RBC</p> <p>The factors that OBSI would consider to ascertain when an investor “knew or ought to have known there was a problem with their investments” should be clarified. In particular, the test should take into account investor responsibilities and the level of knowledge and engagement of the investor. – RBC</p>
<p>Provide firms with working versions of our loss calculation spreadsheets during our investigation.</p>	<p>FAIR Canada questions why OBSI would propose to share versions of its loss calculation spreadsheets with firms without also sharing these with complainants. If firms are provided with working versions, FAIR Canada submits that such should also be provided to complainants, to allow them to participate fully in the dispute resolution process. – FAIR Canada</p> <p>We believe that the written provision of the explanations of your calculations and PDFs of those calculations are valuable to dealers. We appreciated that as you use a Bloomberg terminal for your working spreadsheets the provision of ‘live’ versions of those might be difficult but we would encourage you to provide ‘screen shots’ at moments in time to the degree that this would be possible especially if it would go further to assist the dealer in understanding your calculations. – Federation of Mutual Fund Dealers</p>

	<p>We believe this proposed change would enhance OBSI’s accountability and transparency in the resolution of investor complaints. Additionally, OBSI should ensure that the spreadsheets are provided in a format that would enable firms to review the calculation process and considerations. Where applicable, the loss calculations should also demonstrate how investor responsibilities are taken into account. – IFIC</p> <p>We support this recommendation, and believe it could be helpful in discussions regarding loss calculation. We note, however, that in order to be useful, information as to how values in the spreadsheet are calculated must be transparent. In practice, this means that the columns in the spreadsheet must be “unlocked” so that the input into the cells is apparent. – IIAC</p> <p>It is important that the person producing the loss calculation spreadsheet understands all of the facts of the case and is not merely inputting data. – IIAC</p> <p>Whatever information is provided to dealers must be provided simultaneously to the complainant. – Kenmar Associates</p> <p>The proposed change is positive and provides greater transparency to OBSI’s processes. – RBC</p>
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Process Steps

<p>KYC Determination</p>	<p>In determining financial harm and compensation for mutual fund cases, we suggest that OBSI first establish whether the dealer’s assessment of investment performance was reasonable. If OBSI determines that such assessment was reasonable, we believe OBSI should accept the dealer’s determination of the matter. – IFIC</p> <p>In the case where advisors have satisfied their KYC obligations, OBSI should not assess information that was not available to the advisor at the time the relevant suitability assessment was made. If OBSI determines that the KYC information on record for an investor did not reflect the investor’s actual circumstances at the relevant times, it should provide the reasons for such determination. – IFIC</p> <p>The investment advisor and the firm use the KYC information in their compliance procedures to supervise the suitability of a portfolio for a client, based upon the KYC information, risk objectives and risk tolerance. It is inappropriate that the OBSI process would void those fundamentals, particularly where the client did not dispute the information in the KYC in their initial complaint. – IIAC</p> <p>We are concerned that this “KYC Determination” is done without the benefit of a process to assess credibility, such as face to face interviews, or testimony under oath with an opportunity to cross examine. – IIAC</p>
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	<p>We agree that there is a problem that results when attempting to reconcile the MFDA five-point risk rating scale with the IIROC three-point scale. We are concerned that this results in inconsistent ratings, for instance where an investment shows as a medium-high risk on the MFDA scale is translated to a high risk investment for IIROC investors. Suitability determinations made in such circumstances must be closely examined to ensure the risk rating that OBSI is applying is properly considered. – IIAC</p> <p>In cases where advisors have satisfied their KYC obligations, OBSI should not assess information that was not available to the advisor at the time the relevant suitability assessment was made. – PFSL Investments Canada Ltd.</p> <p>OBSI’s reassessment of KYC information should not be based on its interviews with investors regarding their current perspective and feelings about a past investment that resulted in losses. – RBC</p> <p>OBSI’s process should take into account the guidance under the Companion Policy to NI 31-103 which clarifies that investors are expected to promptly provide their advisors with full and accurate information that could reasonably result in a change to the types of investments appropriate for them. – RBC</p> <p>OBSI also needs to recognize that if securities regulators have not determined that there is a suitability issue, OBSI, being neither a court nor a regulator, should not override the findings of the securities regulators or courts. – RBC</p>
<p>Determining Investment Characteristics and Risks</p>	<p>When dealing with a MFDA member firm, OBSI should risk-rate the security in questions in accordance with MFDA’s risk rating scale and applicable guidance. – IFIC</p> <p>When dealing with an MFDA member firm, OBSI should make its assessments in accordance with MFDA’s risk rating scale and applicable guidance. – PFSL Investments Canada Ltd.</p> <p>When dealing with an IIROC or a MFDA member firm, OBSI should risk-rate the security in questions in accordance with the SRO’s risk rating scale and applicable guidance. – RBC</p>
<p>Disclosure Doesn’t Validate an Unsuitable Recommendation</p>	<p>We would appreciate further clarification as to OBSI’s approach in respect of how investor knowledge and responsibility may factor into the disclosure issue. For instance, if an advisor provides a full explanation of the risks to a knowledgeable investor, would this be reflected in the apportionment of losses due to an acknowledgment of some client responsibility? – IIAC</p>
<p>Making a Suitability Determination</p>	<p>FAIR Canada recommends that OBSI explicitly include the use of leverage as a strategy it would include in its suitability assessment process. – FAIR Canada</p>

	<p>The CRM mandates a number of steps and considerations that advisors must take into account in determining client suitability. IIROC has spent significant time and effort over the past several years to ensure these requirements serve and protect clients’ interests. As such, for OBSI to apply different and / or additional standards places an unfair and excessive burden on advisors in their dealings with their clients. – IIAC</p> <p>We are also concerned with suitability determinations made in situations involving estate executors and those with a power of attorney over client affairs. There are significant problems in determining why decisions were made. – IIAC</p> <p>Rather than a narrow determination of suitability, a new organizing question for OBSI reviews could be...What is a reasonable level of professional care and service offered by an advisor in the face of the investor’s reasonable efforts to understand and collaborate with the advisor in a particular set of circumstances? – David McNabb, RBC Deputy Ombudsman</p> <p>OBSI notes it may consider an investor’s investments in the context of their whole portfolio. We note that ascertaining an investor’s “whole portfolio” may be a challenging exercise since an investor may have multiple accounts with the firm in question, may have accounts with other firms and/or may hold other forms of investments. We request that OBSI (i) outline what constitutes an investor’s “whole portfolio”; (ii) specify how OBSI would decide whether to conduct a suitability assessment on a whole portfolio basis (iii) provide case studies of portfolio-basis suitability determination and the related loss calculation. – RBC</p>
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Other Issues

<p>Appeals</p>	<p>A redesigned and meaningful public appeal mechanism where the advisor and investor names become public along with the dispute substance, only after an impasse in facilitated settlement discussions. – David McNabb, RBC Deputy Ombudsman</p> <p>We urge OBSI to establish an appeals mechanism for its decisions. – RBC</p>
<p>Client Responsibility</p>	<p>FAIR Canada cautions that any application of “investor responsibility” or mitigation principles to a loss methodology calculation must take into consideration the asymmetry of experience, power, and resources between the client and the advisor and firm. Further, FAIR Canada suggests that if consumers are required to mitigate their losses, firms and advisors should also have an obligation to assist consumers in mitigating losses. – FAIR Canada</p> <p>FAIR Canada views the assessment of investor responsibility to be a two-part process: (1) a determination of whether or not the investor, at some point, knew or ought to have known that his or her investments were unsuitable for them, and (2) a determination of what steps, if any, the investor was in a position to take to limit further losses. – FAIR Canada</p>

	<p>The dispute resolution process must fairly take into account the fact that investors bear some responsibility to understand and direct their financial decisions, and that advisors cannot be held 100% to account for failure of such individuals to ensure that they understand the information provided to them, or mitigate losses for decisions that were made about their portfolio, once they are aware that they are not consistent with their understanding or expectations. – IIAC</p> <p>It should be clear that it is the responsibility of the client to divest themselves of unsuitable investments once they are aware of them and they should not be compensated for losses if they continue to hold the “unsuitable” investment when they were aware that it was not suitable for them. – IIAC</p> <p>It should be disclosed to the firm whether the client continues to hold the investment that is the subject of the dispute, or if it has been sold, what the proceeds were. In either case, the compensation recommendation should take into account the investors’ subsequent actions. Where the investment was sold, proceeds from the sale should be factored into the loss calculation. – IIAC</p> <p>We agree that once an investor is fully aware that his or her investments are unsuitable , they have the obligation to take steps to minimize their losses. However, if the Rep maintains the investment is suitable, does not recommend sale or worse , recommends retention, the obligation should be dismissed. – Kenmar Associates</p> <p>In many cases there are costs for liquidation such as early redemption fees in mutual funds or brokerage commissions. In these cases OBSI should make these costs part of the los calculation. – Kenmar Associates</p>
Compensable Losses	<p>OBSI should publicly clarify for investors which elements of financial loss are subject to compensation and which are not- for example :</p> <ul style="list-style-type: none"> • Actual investment losses due to unsuitable investments or other causes • Excessive or unnecessary fees paid • Early redemption penalties or broker fees to exit unsuitable investments • Interest charges for <i>unnecessary</i> margin or loans to make unsuitable investments • <i>Excessive</i> sales commissions (buying the expensive series of a fund rather than a cheaper version) • Undue income tax liabilities/penalties as a result of churning or unsuitable investments • The costs associated with preparing the claim/complaint • Opportunity costs /losses • Consequential damages resulting from unsuitable investments or undue leveraging <p style="text-align: center;">– Kenmar Associates</p>
Documents	<p>Any dealer documents used by OBSI to negate a claim should be made available to the complainant for review. – Kenmar Associates</p>

Duty of Care vs. Fiduciary Duty	OBSI should recognize the distinction between a duty of care and a fiduciary duty, and that the test for whether advisors have fulfilled their duty of care or fiduciary duty should not be uniformly applied. – RBC
General	<p>In FAIR Canada’s view, the amendments proposed in the Consultation are illustrative of the pressure exerted upon OBSI by the financial industry that created it to circumvent attempts to impose a statutory ombudservice. – FAIR Canada</p> <p>Our first comment is with respect to comments made throughout the OBSI’s June 15th 2012 presentation to MFDA Firms. As the OBSI presenters addressed each proposal in turn, it was noted that the OBSI “is already doing this”. We wonder why then these changes are referred to as “proposed” when you have in fact already adopted them? – Federation of Mutual Fund Dealers</p>
Interviews	If OBSI records the interview, the complainant should be notified in advance. – Kenmar Associates
Limitation Periods	OBSI should clarify more precisely, at what point(s) in the complaint process the statute of limitations time clock is stopped and restarted. – Kenmar Associates
Publishing Reports	We request that OBSI publish on its website de-personalized versions of all investigation reports and decisions made by OBSI. – RBC
Risk Ratings	We do not agree with OBSI continuing to analyze mutual funds using risk ratings in the simplified prospectus because we believe it is not fair to do so. The prospectus provides a listing of risks that is not captured by the standard deviation based 5 element risk rating, and neither the Prospectus of Fund Facts is available to the investor at the time of purchase. – Kenmar Associates