

Professor Poonam Puri
Osgoode Hall Law School
4700 Keele Street
Toronto, Ontario
M5P 2P2

January 31st, 2022

By email to : pp@poonampuri.ca

**RE: Request for Comment on the Independent Evaluation of the Ombudsman
for Banking Services and Investments with respect to Investment-Related
Complaints**

Dear Professor Puri,

Portfolio Strategies Corporation (“PSC”) is a Calgary based dealer that is a member of the Mutual Fund Dealers Association of Canada and registered as a mutual fund and exempt market dealer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and the Northwest Territories, and as an investment fund manager in Alberta and Ontario.

We are happy to have the opportunity to provide our responses with respect to the questions contained in the Notice and Request for Comments dated November 4th, 2021.

Opening Comments:

While we have noticed improvements in the quality of the OBSI investigations over the last few years we still have some concerns with the knowledge levels and experience of OBSI investigation staff, or the lack thereof. Member firms and their advisers work with clients face to face on a regular basis (pre Covid) , ask questions about their objectives, investment knowledge, time horizon etc. in an attempt to truly know their client so they can make sound recommendations based on those responses. OBSI seems to take everything clients say at “face value”, where clients change their story from what they told the CSA or an SRO, despite written evidence or signed forms to the contrary, in a snapshot of time, and never truly know the client; worse, OBSI investigators ignore the evidence and decide for themselves what *they* think *should be* the objectives, investment knowledge, or time horizon. This now means that Members and advisers can’t necessarily rely on what clients tell them in signed documents, which seems blatantly unfair. When we raise this issue with OBSI investigators we are told that they “use their own fairness principles” which are not defined anywhere.

Members are at a large disadvantage when we don't know what those principles are, or how they should be applied when meeting with clients.

Some OBSI investigation recommendations are easy to understand and fair, and we believe that most, if not all of these recommendations are followed. Then there are more complex cases, with a lot of moving parts, and cherry-picked alternative investments like lower risk government bond funds , GICs etc. that OBSI decides the client should have been invested in for the period of the complaint – despite the fact that the client said they wanted to grow their capital and did not require income. Some of the OBSI loss calculation spreadsheets are difficult to follow and not always clear, even for industry veterans or experienced Member compliance staff.

We have been involved in OBSI investigations of other Members when OBSI wants to look at current account statements, KYC forms etc. to determine if any changes took place after the client left the previous firm. When we talk to the client to get their permission to release their file to OBSI for such an investigation , they often express gratitude for the service the new firm has supplied in restructuring their portfolio to match their objectives. Imagine our surprise to hear from OBSI that our previously satisfied client now wants to file a complaint against the second Member, likely written or coached by OBSI to make such a complaint. This demonstrates obvious bias against the investment industry and assisting clients to file new, follow up complaints is outside of OBSI's mandate, in our opinion.

There has been some discussion as to whether OBSI should be increasing the limit on its compensation recommendations from the current \$350,000 limit. An increase to \$500,000 has been suggested. We disagree that the current limit should be increased for a couple of reasons. Firstly, awards beyond the current limit of \$350,000 should be left to the courts, where legal principles are strictly followed and both sides know what the rules are, as opposed to OBSI's made up "fairness" principles that are undefined. It has been suggested that OBSI is an avenue for restitution for consumers that can't afford legal costs. There will be no shortage of lawyers willing to take on a \$500,000 claim on a contingency basis, in our opinion. Secondly, large awards beyond the current \$350,000 limit would wipe out the regulatory capital of most small to medium sized Members who might account for 70 to 80% of all registered dealers by size, thus putting them out of business. We don't feel that this is a reasonable approach for firms that may have made an honest mistake or who had employed a bad actor that concealed his or her behaviour from the firm. The loss of small to medium dealers under that scenario would reduce competition in the marketplace, be contrary to the public interest, and favour the largest Members to increase their already very large market share.

To provide context for the purpose of this review of OBSI, the Request for Comment points to some data from the **Capital Markets Modernization Taskforce Final Report (January 2021) , Recommendation 71 re: OBSI**. It quotes supposedly damning evidence that Members do not always follow OBSI recommendations for settlement, but the Taskforce fails to provide context with the numbers supplied, or spins a positive into a negative to push forward an agenda that will score points with the voting public. For example, the paper states that “clients received approximately \$1.04 million less than what OBSI recommended in 2018 and 2019”. If that is \$1.04 million light against \$2 million in recommendations, we agree that this is bad and likely unfair. What if it is \$1.04 million light against \$20 million in recommendations? At 5% light it no longer seems like the scandalous catastrophe that must be solved by granting OBSI binding authority. The report goes on to say that “out of 316 cases that ended with monetary compensation , there were 23 cases (approximately 7%), involving 15 firms , that were settled below OBSI recommendations”. Again, there is no context; were the lower settlements slightly lower than recommended when Members reviewed their client records, or scandalously low by 30 to 70% ? Rather than negatively spin this low number of 23 cases (7%) out of 316 cases, **shouldn't we be applauding industry for paying out OBSI's recommended settlement 93% of the time** ? That is a lot more than glass half full, but it is ignored for the benefit of catchy sound bytes. This unfair characterization of the investment industry has been repeated many times, without context, by many CSA Members and it needs to stop. Please present facts in a balanced manner, after you have done your homework, rather than perpetuate misstatements or half truths about our industry. The investing public, and paying Members deserve better from our regulators.

Please see our responses below in regard to the Request for Comment on the Independent Evaluation of the Ombudsman for Banking Services and Investments with respect to Investment-Related Complaints.

(1) Governance

OBSI's governance structure should provide for fair and meaningful representation on its board of directors and board committees of different stakeholders, promote accountability of the Ombudsman, and allow OBSI to manage conflicts of interest.

- a) To what extent does OBSI's governance structure allow OBSI to provide for fair and meaningful representation on its board of directors and board committees of different stakeholders?*

Response: We are not familiar with the intimate details of their governance structure, but we would note that having 7 out of 10 directors as Community Directors does not bring any level of sophistication or expertise to the OBSI Board. The other 3 Directors are from large conglomerates that can't speak to the challenges and operations of small or medium firms who compete with them directly. Further, there is no representation for Exempt Market Dealers on this Board.

We are concerned that Community Directors may be biased against industry, do not understand how the retail wealth industry operates, and makes recommendations based on staff's own interpretation of client stated objectives and risk tolerance, and they may fail to appreciate the very limited margins and normal capital amounts set aside for small to medium dealer Members. There is significant risk that some awards may in fact wipe out a firm's capital and put them out of business for honest mistakes, or a misunderstanding of the client's objectives and risk tolerance.

b) To what extent does OBSI's governance structure promote accountability of the Ombudsman?

Response: We do not see how OBSI's governance structure promotes accountability of the Ombudsman in any way. In a conversation with Board Members at an OBSI social function in Toronto a few years ago the Board Members seemed to be completely unaware of industry concerns about undefined "fairness" principles, why some dealers may not agree with a recommendation (which they feel was biased and flawed), or the poor quality of some investigatory work from staff that lack knowledge. When you try to engage with a Board Member, they quickly say that they can't get involved with files – before you even have the chance to ask your question. The Ombudsman does not feel that they are accountable to the CSA either, when the CSA questioned the handling of a complaint that was never formally filed by a client. OBSI clearly felt that they could do what they want, without question, which is why some Members are concerned about the notion of OBSI being granted binding authority on their recommendations.

c) To what extent does OBSI's governance structure allow OBSI to effectively manage conflicts of interest?

Response: We feel that the diversity in Board membership allows OBSI to effectively manage conflicts of interest, but industry directors may give current OBSI Executives a free pass if they had appointed these Executives in the first place.

d) What, if any, changes would you recommend to OBSI's governance structure and why?

Response: The Board should be expanded to include representation of Exempt Market Dealers, and small to medium sized dealers. There should be formal CSA oversight of OBSI Board actions and initiatives to ensure that OBSI is acting as it was mandated to do from inception.

(2) Independence and Standard of Fairness

OBSI should provide impartial and objective dispute resolution services that are independent from the investment industry, and that are based on a standard that is fair to both Registered Firms and investors in the circumstances of each individual complaint. When determining what is fair, OBSI should take into account general principles of good financial services and business practice, and any relevant laws, regulatory policies, guidance, professional standards and codes of practice or conduct.

a) To what extent is OBSI's dispute resolution service impartial and objective? Are the standards used by OBSI fair to both parties?

Response: On the surface the dispute resolution service does appear to be impartial, but some Members feel that some investigations are biased against industry. OBSI says that they use "fairness" principles, but this is not defined anywhere, and it often differs from what the CSA or an SRO may deem to be fair. If Members don't know what these "fairness" principles are, how can they be expected to follow them?

OBSI investigators will often ignore client signed documentation that outlines their investment knowledge, risk tolerance, or time horizon, and instead will decide for themselves what the KYC should have said, after they talk to the client who is willing to say anything to get a settlement. Members need to be able to rely on what clients tell them; OBSI feels otherwise.

b) In determining fairness, to what extent does OBSI take into account good business practice and relevant laws, regulatory policies, guidelines, professional standards and codes of practice or conduct?

Response: With all due respect, they don't take any of this into account, but follow their own undefined principles and expectations. Members have had many complaints investigated by the CSA or SROs where no wrongdoing was found to have occurred, yet OBSI seems to proudly state that they don't have to follow any such guidelines from industry or regulators.

c) To what extent are OBSI's decisions consistent?

Response: The decisions are somewhat consistent – when investigated by staff with similar levels of experience. Consistency is reduced with less experienced investigators.

d) Is there anything else you would recommend to make OBSI more impartial, independent or objective?

Response: We would suggest that OBSI look at naming the salespeople involved with contested decisions, rather than the Member firm alone. This would lead to more cooperation from salespeople in both the interview process, fact gathering, and the settlement process. As it stands today, salespeople feel no obligation to cooperate with OBSI investigations that they feel are a result of a false complaint, because they are not at risk of ever being “named and shamed”, and they feel no obligation to contribute to the costs of financial awards. OBSI seems unwilling to look at this option, despite the obvious advantages of doing so for all parties concerned.

OBSI needs to define “fairness” principles that Members can understand and follow. OBSI needs to acknowledge that Members can only make suitability assessments based on the reasonable information placed before them, rather than expect Members to speculate on the investment knowledge, objectives, and time horizons of clients that Member staff will never meet.

(3) Processes to perform functions on a timely and fair basis

OBSI should maintain its ability to perform its dispute resolution on a timely basis and deal with complaints without undue delay and should establish processes that are demonstrably fair to both parties.

This evaluation covers cases completed between November 1, 2018 and October 31, 2020. For a part of this period, OBSI was dealing with the impacts of the COVID-19 pandemic and received a higher case volume than at the height of the Global Financial Crisis. The extraordinary circumstances of the pandemic affected most international financial ombudsman schemes and will be taken into consideration when assessing performance against this term of the MOU, and OBSI's ability to provide its services in the context of rapidly rising case volumes will be evaluated.

a) To what extent is OBSI able to perform its dispute resolution duties on a timely basis?

Response: We feel that dispute resolution duties are performed on a timely basis in recent times, and certainly have improved from five years ago.

b) Putting aside OBSI's decisions themselves, do you think OBSI has established processes that are demonstrably fair to both parties? Why or why not? Do both parties have an opportunity to be heard? Are there consistent and clear communications from staff?

Response: The processes themselves are demonstrably fair to both parties, but as we have stated earlier, "fairness" principles are not defined anywhere so Members don't really know where the goal posts are anymore.

Members have seen files where OBSI staff have crafted enhanced complaints that were not clearly put forward by clients, based on OBSI staff's knowledge or bias against industry. We feel that this is outside OBSI's mandate.

OBSI has pursued investigations against Members that never actually received a complaint from a client. This has happened when Members have provided account information to OBSI to aid in their investigation of a different Member. In one instance a written complaint against one Member ended up as investigations on two other Members – because OBSI staff felt they could widen their net to extract more settlement money from three Members rather than one Member.

c) Is OBSI efficient as a dispute resolution service?

Response: OBSI has definitely become more efficient as a dispute resolution service in recent years, but to be truly efficient OBSI should have ALL BANKS as OBSI Member firms, rather than just one or two banks. Having multiple Ombudsmen or Dispute Resolution Services leads to client confusion, inefficiencies, and potentially inconsistent recommendations. Allowing banks to have their own Ombudsman, funded by those same banks, seems fraught with potential problems and conflicts of interest from a retail client's perspective.

d) Why do you think some firms refuse to compensate consumers in the amount recommended by OBSI or at all when a positive recommendation is given by OBSI?

Response: Based on our discussions with other Members the main reason for refusing to compensate consumers is that the investigation was deeply flawed or biased against the Member. There was disagreement over the facts – written evidence versus what OBSI "thinks" the facts should have been (undefined "fairness" principles again), or when clients change their story, without repercussions, if they feel it will get them a bigger award. When advisers work with a client for a long period of time they truly "know their client". A one-hour OBSI interview with an upset client does not allow for the same level of understanding of "know your client".

In some cases, the CSA or an SRO has investigated the client complaint and found it to be without merit, with no breach of KYC or suitability rules, so why would Members feel that they are suddenly offside and should compensate clients?

Further, almost all client complaints are referred to E&O insurers, who in turn hand it over to their own investigators or legal counsel. If the E&O provider determines that the recommendations were sound, based on the written evidence, they will deny the claim and recommend that Members refuse the OBSI recommendation . If Members choose to offer some level of compensation, they are doing it on their own and will have no financial support from the insurer.

Lastly, some Members have gone out of business or surrendered their registration prior to, or coinciding with receiving a client complaint. If they are going out of business, what incentive do they have to pay out a client based on OBSI's recommendation? None, in most cases.

e) How effective do you consider the "naming and shaming" system to be?

Response: It is somewhat effective in bringing the Member to the table to consider a reasonable recommendation, but it won't be effective for deeply flawed investigations where Members will say "No" based on principle. This system would be far more effective if they "named and shamed" the adviser responsible for the unsuitable trades in the first place. Regulators tell the public to run searches on their financial adviser for registration and disciplinary history. A "bad actor", or repeat offender, will never be found out under the current OBSI processes because the adviser is never "named or shamed". Further, Members will never find out either because there is nowhere for Members to search so they can avoid hiring such "bad actors".

There is also a great unfairness in how OBSI publishes Member names on their website in advance of conducting an investigation. Members are effectively "guilty until proven innocent" based on OBSI's current processes. Many client complaints are dismissed as unfounded, but the damage has already been done when we are "named and shamed" without receiving due process.

f) Should the \$350,000 limit on OBSI's compensation recommendations be increased?

Response: No, we do not feel that the limit should be increased. Any amount higher than this should go through proper legal processes, following the rules of law, as opposed to the current undefined "fairness" principles that OBSI currently operates under. OBSI's notion that they are there to assist clients who can't afford to hire a lawyer is misguided; there are hundreds, if not thousands, of lawyers who will pursue these allegations, on a contingency basis.

g) What powers do you think OBSI should have and, specifically, do you think OBSI should have authority to issue binding decisions? For more information, see Capital Markets Modernization Taskforce Final Report (January 2021), Recommendation 71, included at Appendix 2.

Response: We do not feel that OBSI should have the authority to issue binding decisions because there are no checks and balances on their current processes. There is no appeal mechanism for flawed investigations or recommendations. OBSI makes mistakes, and they are reluctant to admit they ever make mistakes. In the vast majority of cases, Members will pay the recommended amount. Enforcing flawed recommendations with binding authority is problematic on multiple levels.

Further, OBSI management is more concerned about supporting their staff to avoid hurt feelings than they are at arriving at a reasonable and fair outcome.

And with all due respect to the Capital Markets Modernization Taskforce, they don't know the facts, and are only getting one side of the story that fits public consumption. We are not aware of any OBSI Member firm that was engaged to provide their experiences in dealing with OBSI on problem files.

h) What changes would you recommend, if any, to ensure OBSI performs its processes on a timely and fair basis?

Response: Based on Member feedback that we have received, a very high percentage of investigations are completed on a timely and fair basis, and recommended settlements are paid.

The problem that needs to be solved is how to move "stuck files", or disputed facts forward in an investigation. There is no such process in place for "stuck files" that we are aware of. One option would be to escalate the file or appeal to a senior OBSI investigator that has extensive experience . OBSI needs to get files away from overly protective managers that are more focused on getting files through quickly, rather than doing things accurately and fairly.

OBSI should have an Independent Review Committee to look at randomly selected files, but also "stuck files", to make sure that OBSI investigators are conducting themselves in a competent and fair manner.

(4) Fees and costs

OBSI should have a fair, transparent and appropriate process for setting fees and allocating costs across its membership.

- a) To what extent does OBSI have a fair, transparent and appropriate process for setting fees and allocating costs among firms that use its service?*

Response: We are not aware of how OBSI sets their fees, as there is no transparency in this matter. When Exempt Market Dealers were mandated to join OBSI some years ago, their fees were set at a substantially higher rate than mutual fund dealers for example. The fee rate was based on an arbitrary assumption of what EMD complaint volumes *might have looked like*, rather than being based on any factual statistics. Recent EMD complaint volumes are considerably lower than was expected.

- b) To what extent does OBSI provide value for money?*

Response: This question is not entirely clear. Consumers will think it is great value for money – because it costs them nothing. Members who receive very few complaints, if any, will say that they are not receiving value for money. To be fair, fees should be allocated by Member segment, with 100% participation by each segment. OBSI should have every bank as a Member of OBSI. A broader Membership base would more fairly cover some basic fixed OBSI operating costs, allowing for a fairer allocation of fees based on complaint volumes.

- c) What, if anything, can OBSI do to improve the allocation of its fees and the value it provides to its participating firms?*

Response: Broaden Membership to include all banks. Set fees based on actual complaint volumes of each Member type, reviewed every one or two years to ensure fairness.

(5) Resources

OBSI should have the appropriate resources to carry out its functions and to deal with each complaint thoroughly and competently.

- a) To what extent does OBSI have the needed resources to carry out its functions?*

Response: Industry Members are not privy to the inner workings of OBSI, or its resource requirements, so we can't comment on this.

b) To what extent are OBSI's staff qualified, experienced and capable of devoting the required time and effort to individual investigations?

Response: OBSI staff qualifications and experience are not available to Members, or in the public realm, so we can't comment on this, nor can we comment on their ability to devote required time to their investigations.

Having said that, Members have noticed a broad disparity in staff experience on some investigations, and most investigators do not appear to have any experience in working with retail clients. Industry experience would be very beneficial when it comes to understanding how retail clients interact with financial advisers.

c) Is there anything you would recommend to improve OBSI's performance in this regard?

Response: OBSI should involve Industry Members in difficult cases where OBSI and the Member are miles apart on the conclusion of the investigation or recommended settlement. Alternatively, Members should be able to appeal weak or disputed recommendations to a senior OBSI investigator that has some industry experience. These mechanisms do not exist today. The root cause of disputed findings often stems from a lack of OBSI staff experience in dealing with retail clients.

(6) Accessibility

OBSI should promote knowledge of its services, ensure that investors have convenient, well-identified means of access to its services, and provide its services at no cost to investors who have complaints.

a) To what extent does OBSI promote knowledge of its services? What else could OBSI do to make consumers aware of its services?

Response: We are not aware of what OBSI has done to promote knowledge of its services to date. The OBSI website is helpful, but most clients won't know where to find it if the Member does not repeatedly remind its clients about OBSI. The Ombudsman should tie its messaging/services to CSA and SRO websites, which might be the first contact for many clients that have a potential complaint.

b) To what extent do participating firms adequately make consumers aware of OBSI's services? What more could be done, if anything?

Response: Disclosure of OBSI's services as part of a complaint mechanism is both mandatory and sufficient.

c) To what extent is OBSI's public guidance an effective tool for those navigating its services?

Response: As Members, we don't see OBSI's public guidance to those navigating its services, so we have no comment.

d) Is OBSI doing enough to provide access for consumers? For example, are its materials and resources provided clearly and in plain language (and in multiple languages as well)? Are the complaint processes (forms, website portals, etc.) sufficiently easy to use? Is OBSI accessible for persons with mental health issues or disabilities?

Response: We feel that OBSI is doing enough to provide access for consumers. OBSI is accessible for persons with mental health issues or disabilities, and OBSI staff appear to go out of their way to provide assistance to such persons.

e) Is OBSI's social media (LinkedIn, Twitter, Facebook, etc.) effective?

Response: We have no comment as we don't access their social media.

f) Is there anything else you would recommend to make OBSI more accessible?

Response: OBSI should look into increasing their exposure in common search engines, like Google for example. Common search terms such as "investment arbitration" will not lead consumers to OBSI's website today.

(7) Systems and controls

OBSI should have effective and adequate internal controls to ensure the confidentiality, integrity and competence of its investigative and dispute resolution processes.

a) Does OBSI have effective and adequate internal controls to ensure the confidentiality of its investigative and dispute resolution services? Why or why not?

Response: No. We have received OBSI correspondence addressed to other Members on more than one occasion. This is a major breach in confidentiality.

b) Does OBSI have effective and adequate internal controls to ensure the integrity of its investigative and dispute resolution services? Why or why not?

Response: We can't comment on their internal controls as we are not aware of them.

c) Does OBSI have effective and adequate internal controls to ensure the competence of its investigative and dispute resolution services? Why or why not?

Response: We can't comment on this as we are not aware of their internal controls.

d) Is there anything you would recommend to improve OBSI's systems and controls?

Response: OBSI needs to stop going out of their way to declare that they don't follow proper legal principles or rules of the CSA, MFDA or IIROC. We are puzzled as to why OBSI staff regularly point to that when there is disagreement between OBSI and their Members who feel they are following prescriptive rules or principles-based regulation. Members need to know what the rules are, and OBSI can't simply make them up as they go.

(8) Core Methodologies

OBSI should have appropriate and transparent processes for developing its core methodologies for dispute resolution.

a) Does OBSI meet the requirements outlined above? Why or why not?

Response: We are not aware of OBSI's current processes for developing its core methodologies for dispute resolution, so we can't comment. Further, we do not recall seeing any recent guidance on how their policies would have changed.

b) Does OBSI provide adequate reasons for its decisions? Why or why not?

Response: Yes, we feel that they do. It would be helpful if OBSI could point to regulatory guidance or rules to support their position, but this rarely happens.

c) What changes would you recommend, if any, to ensure OBSI has appropriate and transparent processes in place?

Response: Since Members don't really know what OBSI's processes are, OBSI should articulate them and make them public.

(9) Information sharing

OBSI should share information and cooperate with the Participating CSA Members through the CSA Designates in order to facilitate effective oversight under this MOU.

a) Does OBSI adequately share information with the participating CSA Members?

Response: If there is any sharing of information taking place with the CSA, we are unaware of it, but it would be safe to say that the CSA is getting a very biased view from OBSI, as opposed to a balanced message that reflects concerns or objections from OBSI Members.

The fact that the CSA repeatedly mentions refusals to pay from its Members, or expresses concern that settlements are made for less than the recommended amount, tells us that the CSA is only getting one side of the story. This is how OBSI has always operated. OBSI effectively puts gag orders on their Members to prevent them from telling their side of the story.

b) Does OBSI adequately cooperate with participating CSA members?

Response: We can't say for sure, but when we raised an investigation OBSI conducted in the absence of a written client complaint to the OSC, MFDA, and ASC, OBSI did not seem to care what the CSA thought about the matter. We feel that OBSI operated outside their terms of reference but they did not care to listen to anyone's opinion on this.

c) What recommendations do you have, if any, for facilitating effective communication and cooperation among OBSI and the Participating CSA Members?

Response: Regular quarterly updates with a CSA designate on the status of completing investigations in a timely manner, plus reporting on "stuck files", and why, bringing the position of both sides to the review.

(10) Transparency

OBSI should undertake public consultations in respect of material changes to its operations or services, including material changes to its Terms of Reference or By-Laws.

a) Does OBSI engage in public consultations with respect to material changes to its operations or services?

Response: We are not aware of any such public consultations ever taking place.

b) Is there anything else you would recommend to make OBSI more transparent or accountable?

Response: OBSI should publish their processes, and engage experienced industry players for input on their processes. The current industry board members have no apparent background in working with Exempt Market Products, or selling mutual funds to average Canadian clients (one is a large captive shop, one is a Bank, and the third is a conglomerate catering to credit unions). While they may be very bright, honest individuals, they are extremely far removed from retail clients that their members serve.

(11) Comparison with other ombudsman services

One of the purposes of this evaluation is to conduct a high-level benchmarking exercise that compares OBSI to other financial services ombudsman schemes or equivalent in comparable international jurisdictions both operationally and with respect to OBSI's general organizational approaches to matters such as accessibility and transparency.

- a) To what extent does OBSI meet recognized best practices for financial services ombudsmen?*

Response: We have no reference to draw from on this, so we can't comment.

- b) How does OBSI compare to other financial services ombudsmen or equivalent organizations in other jurisdictions both operationally and with respect to organizational approaches to matters such as accessibility and transparency?*

Response: We are a mutual fund dealer and exempt market dealer operating in Canada only, so we can't comment on this.

- c) If you have made or responded to a complaint to a financial services ombudsman other than OBSI, what differences did you notice, if any, between the way the complaint with OBSI was handled and the way the complaint with the other ombudsman was handled (e.g., accessibility, fairness, timeliness, transparency of the process, communications from OBSI staff, etc.)? Please feel free to reference financial ombudsman services outside of Canada.*

Response: We are forced to deal with OBSI only, so we have no comparisons to make.

(12) Progress

One of the purposes of this evaluation is to report on OBSI's progress since the last evaluation was conducted in 2016.

- a) If you have made or responded to more than one complaint through the OBSI complaint process, have you noticed any change over time in the way the complaints were handled (e.g., accessibility, fairness, timeliness, transparency of the process, communications from OBSI staff, etc.)?*

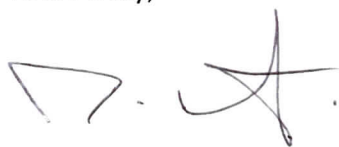
Response: We would say that client complaints are being handled in a more timely manner, with more sound logic than we saw three or four years ago. If the CSA or our SRO have investigated the same complaint and found no evidence of wrongdoing (a breach of clear rules) OBSI might be softening their aggressive stance towards Members, and will occasionally consider the Member's side of the story more so than they did in the past.

b) Is there anything else that you have not mentioned that you would like the independent evaluators to know?

Response: OBSI investigators make mistakes, as anyone can. However, they have settled prematurely with one member before they settled with a second Member on the same complaint. In one instance OBSI split the blame by percentage, say 70/30, going back to inception of an unsuitable leverage complaint. Member One was responsible for 100% of the loss and jumped at only having to pay 70%. When the recommendation came our way, we politely pointed out errors in their analysis, including the fact that the client had no losses at our firm. OBSI was stuck in a bad position because the other dealer had already settled, and their file was closed. We reluctantly paid the shortfall simply to bail out OBSI. I would like to think we got some credit for that, but our shareholders likely feel that we should have refused to pay, simply on principle.

Thank you for the opportunity to provide our comments. Please contact Mark Kent with any questions you may have.

Yours truly,

A handwritten signature in black ink, appearing to be 'Mark S. Kent', written over a faint, illegible stamp or background.

Mark S. Kent, CFA, CLU

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