Via email January 30, 2023

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Review of the IIROC Arbitration Program

I appreciate the opportunity to comment on subject proposals. Technically IIROC no longer exists as it has been consolidated with the MFDA into a new legal entity, so not sure the consultation is appropriate.

Personally I am very concerned with the potential implications of the program updates that were recommended by the Working Group that purport to make the program more accessible to retail investor complainants. It seems to me to be a last gasp at keeping an infrequently used program alive. See arbitration statistics https://www.iiroc.ca/arbitration-statistics This is NOT in the Public interest.

There is no basis or investor demand for a dispute resolution service to compete with OBSI .The proposals make no sense especially since OBSI has just again been rated as a world class dispute resolution entity in compliance with the CSA MOU. Its cycle time continues to improve as does its transparency. An going governance consultation would, if applied, remove privileged Director nomination rights from IIROC and improve governance.

Once OBSI obtains a binding decision mandate, it will be enabled to fully and competently service all dealer complaints, not just former IIROC dealers.

If the IIROC /New SRO needs to set a regulatory priority, it should be to release a new modern complaint handling rule and tighten its enforcement practices to place a greater emphasis on investor compensation and the transfer of disgorged cash to harmed investors.

The OBSI should be reserved for less complex claims, under the CSA approved compensation limit (currently $350 K but likely to reach $500K). The informality of its processes is an ideal fit for the vast majority of retail investor complaints. Adding choice would only add more confusion to an already overly complex complaint system. The dual ECB (banking) system has demonstrated that a single channel is superior and the Canadian Govt. has wisely chosen to end competition between ECB's. Complainants already have the choice of civil litigation including post OBSI decisions. OBSI stops the limitation clock so investors are not impacted by using its services.

If the IIROC proposals were put in place, it is probable some Complainants would be diverted from OBSI, thereby increasing its costs per complaint handled. This is not a positive outcome for the industry and not a great start for a newborn SRO that is mandated to improve efficiency and effectiveness.

Arbitration should be restricted to more complex cases exceeding OBSI compensation limits, up to the $5 million proposed. I suspect this would increase the viability of the program.

The selection of ADR Chambers is in need of a review given the low ratings given to its for-profit ADRBO affiliate (banking ECB) by the FCAC and the recent Puri independent review report. Given that ADRBO earns a profit from banks which own IIROC registered dealers, if they are the chosen arbitration Firm, an MOU and/ or service contract would need to be in place to ensure New SRO has robust oversight rights and appropriate Terms and Conditions to ensure independence.

Arbitrators would need CFR training and a course on handling complaints from seniors and vulnerable clients. Like OBSI, it should be able to handle complainants in multiple languages. I would also expect that if illegal activity is uncovered, that the arbitrator would be obligated to inform New SRO and/ or police fraud squad.

The time limit for utilizing arbitration should be two years from the time the complainant received a final response letter from the Dealer.

Confidentiality restrictions should not preclude ADR Chambers from sharing information needed for enforcement action. Unpaid arbitration awards should result in removal of registration. I cannot comment on how binding arbitration should handle systemic issue cases.

If the arbitration program is maintained, I agree that in certain cases, New SRO could subsidize certain expenses in select cases (Recommendation 14 to provide funding to complainants in qualifying cases).

ADR Chambers should be transparent in its operations ***(which ADRBO up-to-date have demonstrated to be non-transparent)*** and work and have an informative website dedicated to the New SRO. It should provide to the public an Annual report on its activities. I believe that publishing arbitration decisions (anonymized) would improve transparency and confidence in the program.

If the CSA believe binding arbitration is appropriate, why not take over the service from IIROC administration and open it up to former MFDA Dealers as well as all other CSA registration categories, such as exempt market Dealers?

I give permission to publicly post this comment letter on NewSRO website or IROC website until a new website is established.

Respectfully,
Peter Whitehouse