

Feb 23, 2024

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward
Island

Dear Sirs/Mesdames:

Thank you for the opportunity to comment on the proposal to provide a designated independent dispute resolution service, namely the Ombudsman for Banking Services and Investments (OBSI) with the authority to issue binding final decisions.

We are the Canadian Investment Regulatory Organization's ("CIRO") Investor Advisory Panel (the "IAP"). The IAP assists CIRO in the effective fulfillment of its public interest mandate and conveys issues of concern to investors for consideration by CIRO. This includes providing input and advice on investor protection issues, strategic initiatives and regulatory proposals.

General Comments in Support of the Proposal

We commend CSA staff for advancing this important initiative and strongly support providing OBSI with binding authority. An effective dispute resolution and investor redress system for all Canadian investors is amongst the most important elements of a strong regulatory framework to ensure investors are treated fairly and can invest with confidence. Given the importance of this proposal, we encourage the CSA jurisdictions and their respective governments to prioritize this initiative and work as quickly as possible to adopt new legislation and minimize the timeframe where investors are subject to varying investor protection standards across Canada.

We believe the focus and priority at this time should be on providing OBSI with binding authority. Therefore, we have provided limited comments below on only some of the specific consultation questions posed and would be happy to participate in future consultations on other specific elements of the framework.

Question 2 – Deeming Provision and Post Decision Period

We recommend a period of 60 days for the parties to review an OBSI decision at both stage 1 and stage 2. We suggest considering different terminology than “final” recommendation for the stage 1 recommendation to avoid confusion. It is important that complainants receive clear information on their ability to object to the recommendation and seek a review, or to withdraw and pursue other options such as legal action.

Question 3 –Complainants Ability to Object to a Final Decision if they Initiate the Second Stage Review

The proposed framework contemplates that complainants could not reject a decision of the identified ombudservice if they initiated the second-stage review of the recommendation by objecting to the decision at the first stage. This may be reasonable to provide finality, provided the complainant has received ample notice and opportunity at stage 1 to either object or withdraw and a clear explanation of the process for a stage 2 review particularly where they initiate that process. To achieve the intended outcomes of improving the investor redress system, it will be very important that investors receive clear information at each stage of the process to understand their rights and the choices available to them including when they can choose to object to a decision or withdraw from the process and pursue other options.

Question 4 – Compensation Limit

We believe an appropriate next step after providing OBSI with binding authority would be to evaluate and assess the compensation limit of \$350,000 to determine if it should be raised based on an analysis of the available data and international best practices. After an initial analysis to determine the appropriate compensation limit, the CSA and OBSI could consider implementing processes to review the compensation limit periodically (e.g. in 5 year intervals) considering the data from complaints and other relevant data (e.g. indices that measure inflation).

Question 8 – Oversight

We support the proposal for an enhanced oversight regime similar to the approach for oversight of SROs.

Question 9 – Prohibition on the Use of Certain Terminology

We support the prohibition on the use of certain terminology for internal or affiliated complaint-handling services that imply independence, such as “ombudsman” or “ombudservice”. These terms can result in substantial confusion for investors.

Regards,

CIRO Investor Advisory Panel