

OBSI Assisting complainants with their complaint

February, 2022

A fair and effective independent complaint resolution service is essential for investor protection in Canada and is vital to the integrity of ,and confidence in, the capital markets. Client complaints are priceless sources of feedback information about how the client relationship "system "is working (or not)

A financial services industry truly focussed on investors best interests should want to hear about client complaints, ones that are properly framed, so that timely and impactful actions can be taken for fair resolution and improvement of internal processes, if necessary. Complaints are an invaluable information source to deepen client relationships and improve business practices. A poorly framed complaint provides no benefit to the complainant, the Firm (except to improperly avoid liability) or the industry. An adversarial approach can only lead to client dissatisfaction and more regulation.

There has been a concern from the financial services industry with OBSI's assisting consumers with their complaints. To some it appears that the scope of the complaint considered can become much broader than what the complainant initially complained about. This can give rise to a concern that the complainant may be swayed or influenced by OBSI staff resulting in a different version of facts than the original version of the complaint made to the firm.

Retail investor complainants often lack the knowledge and sophistication needed to determine that they've been misadvised, misled, or otherwise disadvantaged. Complainants typically have limited resources and/or low levels of financial literacy, while large financial institutions have substantial resources to defend themselves. Retail investors are at a relative disadvantage when it comes to a complaint against a financial institution; they cannot afford the cost of a thorough legal opinion, legal advice, or representation while Firms either have counsel on staff or are retained to answer any question that arises .Professional OBSI complaint handlers should not be asked to be wilfully blind to a poorly framed complaint. OBSI provides a process that affords asymmetrically capable parties the same means and opportunity to present the case and avoids favouring the better resourced party – the financial institution.

OBSI's Public interest role requires it to not only fairly resolve individual complaints in a timely manner but to act a strategic source of information that could improve investor protection, regulations, disclosure practices, products, or wealth management industry service / conduct standards.

The increasing complexity of financial products and of the financial services marketplace, coupled with the significant number of seniors/vulnerable clients/ recent immigrants in Canada, means that many financial consumers may not be capable of articulating the nature of their complaint to OBSI and would benefit from assistance. An incorrect framing of a complaint can result in undue economic loss for an unsophisticated complainant. Investors may settle one problem, only to learn

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later that they are prevented from pursuing losses incurred from other problems that they did not know about.

Vulnerable investors experience challenges including, but not limited to age, financial literacy, mobility, distance, cognition, mental health, culture, computer competency and digital access barriers, as well as low income (Lower-income households represent almost 40% of OBSI cases) .These barriers may limit their ability to effectively frame their complaint, access and navigate the complaint-handling process. They may also be at greater risk of harm should the process not be effective.

Here is list of some of the assistance retail investors may need:

- Ensure the investor, and their representative if applicable, has read and understood this information and meaningfully consents to participate in the dispute resolution process.
- Explain to the investor that she/he will not be able to use any communications between itself and the OBSI, including OBSI's decision, as evidence in a court of law and provide legal information on the reason for this restriction
- Ask the investor non-leading questions to understand the true nature of the investor's complaint and desired outcomes.
- Assist the investor in identifying sources of information that may be relevant to their complaint.
- Inform the investor they can name an individual to assist them with the complaint.
- Inform the investor that there is a limitation period after which the consumer will no longer be able to bring a civil action in relation to their complaint and information on where to obtain more information about their limitation period, including how to determine its start and end dates.
- Provide the investor with an outline of the timeline and steps OBSI will take to collect evidence, investigate the complaint, determine compensation including the extent to which OBSI considers financial and non-financial harm, and issue a decision.
- Inform the investor of any right they have for reconsideration of the decision, the limitation period to submit a OBSI decision for reconsideration, and the process OBSI will follow should the consumer request reconsideration.
- Inform the investor of other channels for redress including civil litigation after receiving a decision.
- Inform the consumer of the right to also report the complaint to the relevant securities regulator.

The assistance should also include, as applicable, helping with language difficulties, interpretation of applicable rules and terminology and explaining investor rights. The availability of this assistance service is generally unknown by those who need it most. Industry should embrace the idea of informed complainants. It's a Win-Win for all complainants.