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Sent via email.

**CSA Notice and Request for Comment – Registered Firm Requirements Pertaining to an Independent Dispute Resolution Service – Proposed Amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and Proposed Changes to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations**

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The Canadian Association of Retired Persons (CARP) greatly appreciate the opportunity to provide commentary on this very important consultation on binding decisions for the Ombudsman for Banking Services and Investment (OBSI). CARP has joined a coalition of groups focussed on consumer protection to provide governments and regulators evidence of just how significant this consultation is.

Under the current system, the Ombudsman for Banking Services and Investment can only make a recommendation for compensation. As a result from November 1, 2015 to October 31, 2020, investment firms paid almost \$3 million less than what OBSI recommended should be compensated to clients.

With a 25-year legacy, the Ombudsman for Banking Services and Investment stands as a stalwart guardian of financial fairness. This institution, recognized for its impartiality and commitment to resolving disputes, is poised to undergo transformative changes, supported by the advocacy of the Canadian Association of Retired Persons (CARP). Its selection as the sole external complaints body for Canada for banking complaints in 2023 was a watershed moment, signaling a commitment to a unified and robust dispute resolution system.

The 2019 OBSI Seniors report shed light on a concerning disparity between recommended settlements and actual payouts by investment firms. This underscored the pressing need for a binding ombudsman authority, a cause championed by CARP for over a dozen years.

Approximately 40% of complaints to OBSI involve persons older than 60 years old, a figure disproportionate to the general population.



Retirees /seniors have complained about investing in high risk investments, products with hidden fees, have found themselves holding illiquid investments, have run into trouble with tax planning advice and have experienced problems with joint accounts, beneficiary designations and powers of attorney.

Financial losses resulting from unresolved disputes can have life-altering consequences for seniors, who often find themselves in vulnerable positions, with over 30% reporting household incomes below \$40,000.

Seniors may experience vulnerabilities associated with aging, such as cognitive decline or lower levels of access to technology. Seniors are particularly impacted by low- ball settlements or refusals as they have a limited time to recover losses. A binding decision mandate for OBSI would mitigate that concern.

We strongly support the CSA binding authority initiative but have some issues/questions with the proposed binding framework and National Instrument 31-103:

- The review process should give priority to cases involving the elderly when necessary
- Communications with seniors should be in plain language
- OBSI Investigators and reviewers may need special training on working with seniors
  - The average senior investor may find the system difficult to navigate. This could potentially discourage individuals from seeking resolution, impacting their financial well-being. Assistance may be required.
  - The average time to resolve a complaint may significantly increase due to added complexity and steps - tight time standards should be established for each stage



- With judicial review, older investors will likely need to engage a lawyer which defeats the purpose of an ombudservice – Financial support will be required as the dispute resolution system should remain free to users
- Silence equals acceptance should not be part of the system – seniors would prefer a time limit during which they can make a definitive decision to accept or reject the decision
- Seniors should not be expected to seek Court Orders if a Firm disrespects a binding and final decision -the CSA should take regulatory action and OBSI do the filing.
- The statute of limitations time clock should remain stopped until OBSI closes the file (this would include time spent on judicial review if applicable)

Research has revealed that financial planning and preparation are the keys to a successful retirement. Seniors make use of tax advice, financial plans and retirement planning - will these financial activities be considered “registerable activities” or will seniors be prevented from bringing their complaints to OBSI under the new regulations?

Why is a decision binding on the complainant just because she/he objected to the stage 1 recommendation? This not a typical ombudsman practice-it should be re-assessed.

Will Firms be permitted to negotiate a low settlement in parallel with the ongoing review process if the Firm has triggered the investigation?



How long will judicial reviews take- days, weeks, months? Interest on the compensation amount should accrue until the case is resolved

Seniors have been misled by the “ombudsman “title used by some Firms so we are pleased misleading nomenclature will end. Another related issue involves affiliated entities entering into the CSA space. Only substantive response letters from regulated entities should be accepted by OBSI/identified ombudservice- unregulated affiliates, subsidiaries etc., no matter what the nomenclature, should be non- permissible participants. We are also pleased to note that the 90 day period will apply to all internal complaint handling

processes that may be pursued by the registered Firm prior to providing the client written notice of a decision.

The 2021 Independent review recommendations on a systemic issues protocol should be addressed as an integral component of the transition to binding authority

Confidentiality Agreements should be prohibited so that other clients similarly impacted can be made aware of the wrongdoing and complainant mental health preserved. See CARP’s position on NDA’s at <https://www.carp.ca/our-advocacy/investor-protection/>

Regulators should modernize the laws/regulations on Firm complaint handling-they are inadequate and out of date.

A strategic purpose of the identified ombudservice should be articulated - continuous improvement, prevention of complaints, feedback to Firms/regulators dealing with systemic issues.

Regulators should increase oversight of Firm complaint handling practices, unfair compensation offers and complaint diversion tactics - appropriate sanctions should be applied.



We hope this feedback is useful to you.

This letter may be posted on your website.

Your truly,

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The Canadian Association of Retired Persons (CARP) is a national, non-partisan, non-profit organization that advocates for financial security and improved health care for Canadians as we age. With over 225,000 members and 25 chapters across Canada, CARP Canadians. CARP advocates on behalf of older Canadians with all levels of government and collaborates with other organizations on health, ageism, housing, and financial issues.  
**[www.CARP.ca](http://www.CARP.ca)**