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Re: CSA Notice and Request for Comment – Proposed Refinements to the OBSI Binding Authority Framework (25-314)

At the outset I would have hoped that the Canadian Securities Administrators (“CSA”) would have provided a longer comment period especially when you consider that retail (aka main street) investors

do not have the resources that the financial industry has to provide meaningful and insightful comments in the time frame provided especially given that the comment period started on **July 15-2025** which potentially conflicts with most main street investors summer vacation periods.

I am providing these comments solely as an independent vulnerable senior main street investor who has unfortunately throughout my investing life had many negative interactions with the financial industry that have necessitated, at times, assistance from the Ombudsman for Banking Services and Investments ("OBSI") as litigation is as you are aware is far too expensive for the majority of main street investors.

BACKGROUND

As opposed to providing specific theoretical legalistic comments with respect to CSA notice 25-314, that most probably are going to be provided by many contributors I opted to focus on my recent experiences with the OBSI that have left me seriously questioning the OBSI's investigative skills to be positioned to operate within a "**binding decision authority**" framework.

The issue described below prompted me to provide comments with respect to the OBSI Binding Authority Framework (25-314) as I am really concerned how this issue was handled by the OBSI. Going forward, based on my recent experiences, I will never waste the time and resources that I did attempting to direct the OBSI to systemic issues as in the past I have had success dealing with the financial industry without using the OBSI by stating that I would take the matter to the courts, as the financial quantum was larger, which is as you are aware, a public venue. That in and of itself suggests that the financial industry is concerned about public disclosure of information as resolution was arrived at. The financial losses sustained this time did not warrant litigation which is why I referred the matter to the OBSI.

The fact pattern was that I initiated a wire transfer between two Canadian Schedule A financial institutions ("FI"), hereinafter referred to as FI1 and FI2 to move funds from FI1 to my investment manager's ("IM") FI, FI2 that was interrupted for approximately **thirty (30)** days for unproven / unsubstainated allegations of suspected fraud notwithstanding that all the participants, with exception of the FIs, were Canadian Investment Regulatory Organization ("CIRO") registrants.

From my perspective the issue for OBSI to investigate was really very simple being:

- Why was there such an unreasonable delay in having the wire funds returned to me when I did exactly what FI1 directed me to do?
- What FI's were accountable for the delay as both FI1 and FI2 blamed the other as being accountable for the delays, each accepting no responsibility? Surely there is accountability for the delay somewhere in the wire transfer process.
- Why did FI2 interrupt the wire transfer for an allegedly potentially fraudulent transaction when the designated beneficiary of the funds as identified in the account the funds were sent to at FI2 were all CIRO registrants?

However, based on all the information I received from the FI's that made no absolutely sense to me as the two FIs involved both stated that they are not accountable for the wire transfer delay I referred the matter to the OBSI as that is the only avenue for main street investors, with the exception of litigation, that no one in their right mind would undertake for relatively small immaterial losses. Any reasonable person would conclude that the FIs positions were totally unreasonable.

The financial losses claimed were **$409.81** which are **not material** to most main street investors**.** Nonetheless it should be important for the OBSI as the amount is potentially scalable as FI2 advised me

that any FI can hold any quantum of wire funds for as long as they like without providing any reasons why in cases of suspected fraud. In a democracy that very statement should be deeply troubling to all main street investors, all regulators, and the OBSI. The OBSI should also be concerned as in my opinion the many recurring issues with wire transfers are systemic and the OBSI should be publicly calling out these recurring systemic issues. My understanding in that the OBSI should be identifying and reporting systemic issues. Consequently, I envision that the $75,000 proposed threshold for issues with similar fact patterns to mine will not benefit many or better stated any main street investors as below $75,000 OBSI senior staff will decide on these cases which is effectively the Reconsideration Process known by another name but still not independent which is what is required.

For the record, questions to FI2 and Payments Canada ("PC") regarding the reasons why the wire transfer was tagged as suspected fraud initially were not answered. By way of background, PC and the Financial Consumer Agency of Canada ("FCAC") both point to each other for accountability of wire transfers each organization doing nothing with respect to wire transfers. By the way, the funds were eventually returned by FI2 which supports the fact that there was no fraud involved.

There was final closure of the **$409.81** claim from the OBSI after **279 days**, (**approximately 9 months**) involving approximately **eighty-one (81)** email communications, **one (1)** telephone conversation, and including approximately **sixty-eight (68)** exhibits. In my opinion, the CSA and the financial industry should be concerned as to these statistics as this could have the potential to exponentially increase OBSI's costs going forward and negatively impact the OBSI's reputation with main street investors.

I do not think that this proposal addresses all of the issues impacting OBSI's service delivery and in that regard I direct you to an article with respect to OBSI governance at OBSI Governance Consultation.

As I am subject to the terms of the OBSI Consent Letter (also known as a Non-Disclosure Agreements ("NDAs"), Confidentiality Agreement, or a GAG Order) I can not share the outcome of the OBSI decisions or any of their communications.

Given that I am prevented by way of the OBSI Confidentiality Agreement (GAG Order) to discuss the OBSI decisions I have summarized some recommendations that the CSA could consider mandating compliance by the OBSI to restore / ensure investor confidence in OBSI decisions as follows (not a complete list with any prioritization applied):

- Firstly, and most importantly eliminate GAG Orders for at least small financial quantum claims and / or at least provide main street investors more latitude as to who they can discuss the issues with as currently GAG Orders can not even be discussed with religious and medical practitioners which in effect potentially revictimizes main street investors.
- Implement Professor Puri's OBSI systemic issues protocol recommendations and modernized definition of a systemic issue. I am confident that my issue would be defined as systemic.
- Given that OBSI is to hear from financial consumers why was the Consumer and Investor Advisory Committee unceremoniously disbanded especially when it included some of the top Canadian investor advocates?
- The OBSI should establish a complaint system wherein stakeholders / complainants could file complaints against staff behaviour, processes, transparency, or bias / perceived bias. This information should be invaluable to the CSA in their ongoing oversight of the OBSI.
- Samples of OBSI decisions should be sent out periodically for third party review especially in a "**binding decision authority**" structure. A fresh set of eyes would help the OBSI validate its procedures / systems / policies / processes. Please feel free to use my case for a third-party review as there is lots of information to assess OBSI's decision making processes.

- The CSA should operationalize the Opportunity Cost Loss Calculation methodology for all account complaint investigations for the OBSI and the financial industry. The exempt market dealers have complained about OBSI's loss calculation methodology. OBSI senior management were slow to react for whatever reasons but recently launched a consultation that the OBSI has been sitting on the results for months. Why?
- The OBSI should be required to establish a Total Quality Continuous Improvement Program such as ISO 9001 Quality Management System Certification.
- OBSI stage 2 investigations may be challenging for seniors and vulnerable people. Consequently, the OBSI should attempt to connect these persons to investor protection clinics, pro-bono legal counsel or legal aid as applicable.
- The CSA should revisit the **OBSI OUT-OF-MANDATE** limitations and how the OBSI is operationalizing authority. My assessment of the OBSI Terms of Reference is that the OBSI has authority to investigate especially in the area of wire transfers as the FI commercial practices are systemically disadvantaging and are prejudicial to Canadian financial customers by allowing FIs to "***not be responsible for any delays, errors, or losses for individuals and/or entities based on delivery mechanism used to process this wire payment***". The investigative authority exists in Part 6 of the OBSI Terms of Reference that state "**However, OBSI may investigate whether the process by which a Participating Firm implemented its policies and practices or made or maintained a Commercial Judgment was biased, incomplete, not in accordance with the Participating Firm's policies and procedures or otherwise was unfair**".
- If the OBSI declares a complaint out- of- mandate it should be accountable for providing reasons with referencing the OBSI Terms of Reference and inform the complainant where to redirect their complaint for potential redress.
- **IN-MANDATE / OUT-OF-MANDATE** investigative limitations should be clearly disclosed on the OBSI website not buried in the OBSI Terms of Reference so that complainants can understand what the OBSI can investigate.
- As the CSA is concurrently reviewing CIRO Phase 5 complaint handling proposals, I recommend they be rejected on the grounds they undermine the OBSI by allowing so-called internal dispute resolution services to exist and giving them up to 120 days to respond which will exhaust the main street investor, resulting in complainant fatigue resulting in complaints to the OBSI. CIRO Member Firms should be required to provide a substantive response letter within 90 days, full stop. CIRO's plan to enhance Arbitration is another potential risk to OBSI.
- In respect of each of OBSI's Participating Firms, the OBSI should annually report the number and nature of complaints that it received, the number of complaints that it determined were within its terms of reference, the number of final recommendations that it made and the number of complaints that, in its opinion or by investor survey, were resolved to the satisfaction of the complainants. The overall number of complaints that resulted in compensation should also be disclosed with average and median financial numerics.
- OBSI should not accept substantive response letters from affiliates of the registered / Participating Firm that themselves are not bound by CIRO or CSA rules and regulations.

Notwithstanding that I support "**binding decision authority**" my recent experiences have reinforced my concerns as to how the OBSI's investigative processes / procedures are to operate within the proposed new structure for losses less than $75,000.00. Consequently, I would hope that the CSA would mandate that:

- The OBSI to operate with significantly more transparency than they are currently operating under with specific reference to the recent OBSI investigation that I have no clue as to what the OBSI used / did not use to arrive at their decisions.
- The OBSI should have a process whereby all participants would have the right to an external review mechanism in cases of significantly less financial quantum involved as opposed to the OBSI Request for Reconsideration process that my understanding only considers new evidence and does not reassess any OBSI decisions in the absence of new evidence which in effect is not an appeal process. I have serious concerns as to how the OBSI Reconsideration process operates that will be discussed below.
- The OBSI should be publishing their anonymized decisions with less anonymization on its website so stakeholders can better understand the OBSI decisions that will assist main street investors as I am confident that the OBSI will render many decisions wherein the complainants are not satisfied.

In addition, the CSA should consider conducting ad hoc examinations or authorize independent reviews or commit to some sort of direct audit annually or provide extensive oversight including checks and balances at all levels of financial quantum decisions, especially monitoring how the OBSI conducts their investigations, as opposed to just at the $75,000 threshold stage 2 external review processes. Up to that threshold many main street investors may still have concerns as to the OBSI's investigative processes even with binding decision authority as the biggest risk I envision is OBSI's investigative processes / procedures, especially in the absence of an internal / external review mechanism.

In my case, a root cause analysis ("RCA") would have most probably identified the source of the issue. I recommend that the CSA mandate Designation Orders requiring the designated ombudservices to use RCA in its investigations. RCA aims to uncover the underlying issues, potentially systemic, that when resolved, hopefully will prevent the recurrence of similar complaints. This proactive approach improves customer satisfaction which the OBSI recognizes as very low, reduces costs associated with resolving repeated issues (imagine the OBSI resources expended on my immaterial financial quantum issue), and potentially could enhances OBSI's overall operational efficiency resulting in less costs for member firms. Stated another way, can / should the OBSI continue to expend nine (9) months of time and resources dealing with a $409.81 loss claim or should the CSA mandate performance improvements at the OBSI to improve efficiency of OBSI processes? In that regard I welcome rigorous CSA oversight of the OBSI.

I question the competency of all OBSI staff involved in my issue as the OBSI has publicly acknowledged increasing workloads due to the quantum of claims and my assessment is that they are not equipped to handle the increased workloads and as such could potentially be rushing through investigations and missing critical points to clear case backlogs. According to the OBSI 2024 Annual Report; twenty-seven (27) percent of consumers gave OBSI services a favourable rating and would recommend the service while only nineteen (19) percent were satisfied with the outcome of their complaint. The CSA should be concerned as to these satisfaction numbers as the numbers suggest potential issues with fairness.

For the vast majority of main street investors, the CSA proposal does not go far enough as for main street investors with losses less than $75,000, as I see no avenues for any external review so main street investors will be required to accept the OBSI recommendation, request a senior OBSI staff member conduct a stage 2 review (effectively the Reconsideration process) which is done internally by the OBSI and as such could have inherent bias, or perceived bias, or as a final recourse proceed to court with the issue. To summarize, my assessment is that potentially small losses will most likely not see much benefit with the OBSI obtaining "**binding decision authority**".

In addition, my understanding is that with "**binding decision authority**" the OBSI will cease naming and shaming investment industry participants which also weakens main street investors access to

information to help guide investment decisions. Consequently, complainants' refusal of a binding decision or low-ball settlements should be publicly disclosed. Overall statistics per Participating Firm should be publicly disclosed on their use of stage 2 reviews.

RECONSIDERATION PROCESS

The OBSI Reconsideration Process is closely aligned with OBSI customer service. A process that respects main street investors provides confidence that the OBSI has an effective independent review process. My recent experiences identified many OBSI Reconsideration Process shortfalls from an OBSI complainants' perspective for the following reasons:

- Given that my issue involved two (2) separate FIs and for investigative efficiency I recommended on numerous occasions that the same OBSI officers be assigned the case to ensure that all the issues were understood. The OBSI assigned different officers with no explanations whatsoever.
- Notwithstanding that the OBSI states on their website that reconsideration requests will be acknowledged within five (5) business days that did not happen. Even after repeated email requests to the reconsideration email address my reconsideration request was not even acknowledged after excessive time frames.
- Given no response I escalated the issues to the OBSI CEO (Ombudsman) and repeated emails to the OBSI CEO / Ombudsman identifying reconsideration process issues that could cause reputational issues for the OBSI were not even acknowledged.
- Considering the volume of information provided I was surprised, or better yet shocked, that a Reconsideration Request was able to be rendered within five (5) business days.
- New information was brought to the attention of the OBSI Reconsiderations Officer(s) and I see no evidence that this information was considered. In that regard, the CSA may want to consider ordering the OBSI to revise their communications to complainants to make specific reference to new information provided and being assessed at the Reconsideration phase.
- For whatever reasons it was a struggle trying to get answers to questions directed to a Reconsideration Officer with respect to what information I would be allowed to share eventually amongst other questions causing me to reach out to the OBSI CEO (Ombudsman) who directed the Reconsideration Officer to respond.
- I still remain confused when I read the Reconsideration Final communications that omitted many points that were not considered so I am still left wondering as to what actually was considered in the OBSI decisions.

With all the issues with the Reconsideration Process and me bringing the many issues to the attention of the OBSI CEO / Ombudsman surely a reasonable person could potentially think that the aforementioned actions could have potentially impacted the reconsideration decisions received especially when there is no management oversight to ensure investigative integrity.

Given the volumes of information that I presented to the OBSI as part of the investigations and the Reconsideration Process, I am still dismayed with the lack of meaningful decision information presented in the OBSI's final communications.

The fact that the OBSI ignored my many communications that are in breach of the OBSI's own stated fairness policies / guidelines suggests, at least to me, that the OBSI is clearly not ready to take on additional powers as the OBSI are clearly demonstrating that they are struggling with the Reconsideration Process, per se, due to staffing issues and workload issues, that quite frankly most complainants do not care about.

I am confident that the way I was treated by the OBSI is no different from the way OBSI treats other complainants. As such, I am wondering who the OBSI exists to serve as this demonstrated that the OBSI can treat main street investors with disdain necessitating me to reach out to the OBSI CEO (Ombudsman).

Speaking solely as a main street investor, I find the OBSI's failure at all levels to acknowledge the many reconsideration process communications delays, one delay well past the OBSI's own imposed deadline, very disconcerting and egregious and recommend that the CSA perform a compliance sweep utilizing an RCA on the OBSI Reconsideration Process as part of its decision to provide the OBSI with "**binding decision authority**".

I am reasonably confident that for losses over $75,000 the process will be far more transparent and will assist main street investors better than the Reconsideration Process that, at least from my perspective, I define as a "**rubber stamp**" of the OBSI decisions.

What I can not see is how will the OBSI "**binding decision authority**" improve main street investor outcomes for losses less than $75,000 if main street investors do not agree with the OBSI decisions?

TRANSPARENCY

The current OBSI process is not transparent and the proposed CSA refinements appear to potentially introduce additional transparency in cases where the losses are $75,000 or more.

Without transparency how is the CSA going to measure / assess investigative accountability as the current OBSI processes do not allow for senior management to intervene to maintain the independence and impartiality of OBSI staff. In addition, based on limited discussions and feedback from the OBSI I have no idea how the OBSI arrived at their conclusions. Given the above statistics this should be disconcerting to the CSA especially given that binding decision authority is being proposed.

Transparency is also inter-related to GAG Orders as even if the OBSI was more transparent that would most probably be appreciated by complainants, the fact that the OBSI operates under GAG Orders is still not in the public interest which is a repeated observation.

CONFIDENTIALITY AGREEMENTS (GAG ORDERS)

GAG Orders represent a massive risk to continued financial assaults on main street investors as I assume that the OBSI naming and shaming of parties will cease in the "**binding decision authority**" process which means that even less information will be communicated to main street investors as with the OBSI naming and shaming firms there was a chance that main street investors would be able to make more informed decisions.

My recommendations to all main street investors are if they want their issue communicated to potentially protect other main street investors is to disseminate any / all information out to as many people / organizations as possible before signing any GAG Orders as information disseminated before a GAG Order is signed is not covered under a GAG Order.

GAG Orders have been subjected to significant media attention, especially in the area of sexual assaults as they shield the perpetrators from being accountable for their actions. In fact, the Canadian Bar Association ("CBA") has recently taken a stance against the misuse of (NDAs). The CBA passed a resolution aimed at reining in the use of NDAs to silence whistleblowers and victims of abuse, discrimination, and harassment. The CBA will advocate for legislation and policies that prevent NDAs

from being used to cover up misconduct. In summary, GAG Orders are being attacked by Society on a broad front.

However, GAG Orders are still widely accepted in the financial industry, notwithstanding that they revictimize complainants and protect abusers so hopefully the CSA revisits the applicability of GAG Orders if the OBSI is provided "**binding decision authority**", especially in cases of minimal financial losses.

In closing, my assessment is that if the CSA reviewed my recent experiences with the OBSI it would provide the CSA additional insight to guide their decision with respect to providing the OBSI "**binding decision authority**". Personally, I have no confidence in the OBSI for fair and timely fair dispute resolution, which is their mandate.

Thanks for your attention to this important matter.

Please let me know if you require any further information or wish to discuss further.

Rick Price