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Ms. Poonam Puri
Independent Reviewer
pp@poonampuri.ca

**Request for Comment on the Independent Evaluation of the Ombudsman
for Banking Services and Investments (OBSI) with respect to
Investment Related Complaints**

Dear Ms. Puri,

C.A.R.P. welcomes the opportunity to provide commentary on independent evaluation of OBSI with respect to investment related complaints.

About C.A.R.P.

C.A.R.P. (Canadian Association for Retired Persons) is Canada's largest advocacy association for older Canadians with 320,000 members from coast to coast. As a non-partisan association, C.A.R.P. is committed to working with all parties in government to advocate for better healthcare, financial security, and freedom from ageism.

Our comments are as follows:

Governance

C.A.R.P. supports calls by other seniors' advocates to dedicate a seat on OBSI's Board of Directors to an individual committed to representing the interests of seniors and vulnerable investors. Not only will this position complement the newly appointed Consumer Interest Director, but it will also provide meaningful representation of different stakeholders on the Board. Such a position will serve the interests of current and future retirees and will improve investor confidence.

Processes to perform functions on a timely and fair basis

Why do you think some firms refuse to compensate consumers in the amount recommended by OBSI or at all when a positive recommendation is given by OBSI?

Moral suasion and public scorn are not enough to compel firms to comply with its compensation orders. In the absence of binding authority, firms hold the effective

balance of power, allowing them to disregard entirely, or negotiate down the recommended amount of compensation.

How effective do you consider the “naming and shaming” system to be?

The current system of publicly naming firms that won’t pay the recommended compensation to clients is ineffective.

The harms suffered by investors under the current regime have been well documented.

Losses and inefficiencies arise because:

- Firms can refuse to make the recommended restitution, causing direct harm to investors,
- Investors know firms can refuse, so may settle for a firm’s offer of less than OBSI’s recommended restitution (so called low-ball offers), and
- OBSI knows firms can refuse, so may go through protracted negotiations to bring a firm on board, resulting in increased costs to all firms and delayed settlements for investors.

Should the \$350,000 limit on OBSI’s compensation recommendations be increased?

Yes. The original limit of \$350,000 was established in 2008. C.A.R.P. recommends that OBSI’s loss award limit increase to \$500,000, as in line with other international dispute bodies (UK’s Financial Ombudsman Service has a limit of £350,000 and Australia has a limit of AUS \$500,000). C.A.R.P. also supports a biennial increase in line with the Consumer Price Index to ensure the threshold remains at a reasonable level.

What powers do you think OBSI should have and, specifically, do you think OBSI should have authority to issue binding decisions?

C.A.R.P. fundamentally agrees with the Capital Markets Modernization Taskforce consultation report, which proposed, among other things, to give OBSI binding authority to compel firms to comply with its compensation recommendations.

Although low settlements occur in a relatively small percentage of overall cases, such settlements are unfortunately common for larger recommendations – especially those above \$40,000. Such low settlements can be financially devastating and are, in part, a consequence of OBSI’s inability to compel firms to pay the recommended amounts. Moreover, OBSI’s inability to make binding recommendations undermines its effectiveness by forcing it to spend time and resources getting disputes settled.

Seniors are disproportionately represented in complaint statistics. OBSI's analysis of demographics for complaints filed in 2017 and 2018 revealed that 38% of complaints were from those 60 and older, although this group comprises only 30% of the Canadian population. Moreover, 24% of C.A.R.P. Members in a recent survey said they've experienced financial harm from a financial institution or advisor¹.

The impact of financial loss on a senior can be life altering. Retirees, seniors and vulnerable investors deserve an independent, accessible, and most importantly, effective financial ombudsman service, as any undue losses they incur cannot readily be recouped. With increased longevity, more seniors will face financial hardship and require taxpayer-supported social benefits.

Systemic Issues Mandate

C.A.R.P. also recommends that OBSI be given a mandate to investigate systemic issues it has identified. Such an important function will foster confidence amongst all stakeholders that systemic issues are being addressed and will serve to prevent and reduce the incidence of complaints.

Thank you for the opportunity to provide our comments.

Yours truly,

A handwritten signature in black ink that reads "Bill VanGorder". The script is fluid and cursive.

Bill VanGorder
Chief Policy Officer & Chief Operating Officer
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¹ C.A.R.P.'s Member Poll, June 2020

<https://www.C.A.R.P.ca/2020/06/18/new-poll-older-canadians-want-government-to-improve-protections-for-investors/#:~:text=A%20trusted%20contact%20is%20an,need%20for%20a%20trusted%20contact.>