

## CSA Staff Notice 31-340

### OBSI Joint Regulators Committee Annual Report for 2014

March 19, 2015

#### Introduction

This notice is being published jointly by the Canadian Securities Administrators (CSA) (other than Québec), the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA) to serve as the first Annual Report of the Joint Regulators Committee (JRC) of the Ombudsman for Banking Services and Investments (OBSI).

The JRC meets regularly with OBSI to discuss governance and operational matters and other significant issues that could influence the effectiveness of the dispute resolution system.

The purpose of this report is to provide an overview of the JRC and to highlight the major activities conducted by the JRC in 2014.

#### Background to Establishment of the JRC

In December 2013, OBSI announced changes<sup>1</sup> to its terms of reference (OBSI TORs) and to its processes following substantial governance reforms.

In 2014, amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the Amendments) came into force requiring all registered dealers and advisers, outside of Québec, to use OBSI as the common service provider for dispute resolution services. In Québec, the Autorité des marchés financiers (AMF) provides a mediation service to those clients of all registered dealers and advisers who reside in Québec. The Québec regime remains unchanged and firms registered in Québec have to inform clients residing in Québec of the availability of the AMF mediation service.

Prior to August 2014, IIROC and MFDA (together referred to as the self-regulatory organizations or SROs) already mandated the use of OBSI as the dispute resolution service provider for their member firms. SRO members continue to be subject to their SRO's rules concerning complaint handling. After August 1, 2014 all registered dealers and registered

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<sup>1</sup> For details see <http://www.obsi.ca/en/news-a-publications/339-obsi-board-approves-new-terms-of-reference>

advisers, including portfolio managers (PM), exempt market dealers (EMD) and scholarship plan dealers (SPD), had to make OBSI available to their clients as their dispute resolution provider.

The CSA created a framework intended to ensure that OBSI will have the ability to effectively discharge its mandate under the Amendments. A Memorandum of Understanding<sup>2</sup> (MOU) provides an oversight framework for the participating CSA members and OBSI to cooperate and communicate constructively.

The CSA jurisdictions and OBSI agreed with the SROs to form the OBSI JRC with a mandate to:

- facilitate a holistic approach to information sharing and monitor the dispute resolution process with an overall view to promoting investor protection and confidence in the external dispute resolution system;
- support fairness, accessibility and effectiveness of the dispute resolution process;
- facilitate regular communication and consultation among JRC members and OBSI.

OBSI provides the JRC with information as contemplated by the MOU.

#### **Overview of JRC Activities in 2014**

In 2014, the inaugural year of the establishment of the JRC, four meetings were held. The following matters were considered:

1. **Compensation refusals:** The JRC discussed compensation refusals published by OBSI. The JRC will monitor compensation refusal cases and consider patterns or issues raised by them. While OBSI recommendations are not binding, the JRC expects firms to act in good faith when participating in OBSI processes.
2. **Systemic issues:** Given the removal of the investigation of systemic issues from the OBSI TORs, the MOU provides for reporting by OBSI's Board of issues that appear likely to have significant regulatory implications, including issues that appear to affect multiple clients. The JRC is in the process of establishing a protocol to define potential systemic cases and to set out a regulatory approach to address these issues when reported by OBSI.
3. **Form of quarterly reporting by OBSI to JRC:** The JRC and OBSI established a standardized form of quarterly reporting to assist in monitoring trends and patterns of complaints. The reporting also covers the time it takes OBSI to handle complaints.
4. **Transition of new members to OBSI:** The JRC monitored and provided support and guidance to OBSI on the transition of new members to OBSI.

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<sup>2</sup> For details see:

[https://www.bsc.bc.ca/Securities\\_Law/Policies/PolicyBCN/BCN2013/10\\_Notice\\_of\\_Memorandum\\_of\\_Understanding\\_concerning\\_oversight\\_of\\_the\\_Ombudsman\\_for\\_Banking\\_Services\\_and\\_Investments\\_\(OBSI\)\\_BCN/](https://www.bsc.bc.ca/Securities_Law/Policies/PolicyBCN/BCN2013/10_Notice_of_Memorandum_of_Understanding_concerning_oversight_of_the_Ombudsman_for_Banking_Services_and_Investments_(OBSI)_BCN/)

5. **Independent evaluation of OBSI:** The JRC discussed the requirement under the MOU for an independent review of OBSI's operations and practices that is required within two years of the Amendments (in 2016). The review will be undertaken by an evaluator acceptable to the CSA in consultation with the JRC.

The meetings provided the JRC with an opportunity to be updated by OBSI on certain matters. These matters included:

1. **OBSI process enhancements:** OBSI reported on its process enhancements aimed at meeting the 180-day timeline standard set by its Board (80% of case files closed within 180 days). OBSI reports that all cases which came to OBSI after November 1, 2013 are expected to meet this standard and older cases are on track to be eliminated by end of April 2015.
2. **Reports about onboarding of new membership groups:** OBSI reported quarterly on their preparation for the increase in members with the addition of the EMD, PM and SPD registrant categories, including hiring and training of staff.
3. **Blanket tolling agreement:** OBSI reported on the adoption of a blanket tolling agreement<sup>3</sup>, thereby suspending limitation periods while OBSI considers a complaint. This applies to new complaints received by OBSI after October 27, 2014.
4. **Segregated funds and the protocol for OBSI/OLHI cooperation:** OBSI reported on its new protocol<sup>4</sup> for referring complaints related to segregated funds to the Ombudservice for Life and Health Insurance (OLHI).

### JRC Meeting with OBSI Board of Directors

As required by the MOU, the annual meeting of the JRC with OBSI's Board was held on September 23, 2014. The meeting included discussions of operating and governance issues and the effectiveness of OBSI's processes.

### Questions

Please refer your questions to any of the following CSA staff:

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<sup>3</sup> For details see: <http://www.obsi.ca/en/about-us/how-we-work/tolling-agreement>

<sup>4</sup> For details see: <http://www.obsi.ca/en/news-a-publications/381-obsi-update-october-2014>

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