

December 29, 2023

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

The Secretary
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I appreciate the opportunity to provide an input.

This is one of the most important consultations in a decade.

It sends a message to Bay Street that regulators are concerned about how complaints are handled and resolved.

I would like to point out the following re the proposed binding framework:

There is a visible lack of harmony between provinces
There is no assurance anything will come of the consultation
The definition of complaint is limited to trading and advising
Investors will be challenged to navigate the system

The average time to resolve a complaint will increase significantly
There is the possibility an unwilling complainant could be bound by a decision
Every move made by OBSI will be watched by the CSA making the Board redundant and its independence challenged
OBSI will be subject to CSA compliance examinations in addition to Independent reviews

Legal counsel may be needed by complainants at various decision points
OBSI expenses will materially increase as will Member fees
OBSI will not be an ombudsman- it will be a quasi-binding arbitrator
Confidentiality Agreements will persist

Plenty of opportunities for Dealers to continue to low- ball victims
Complainants could be exposed to serious cross examination

The payout limit was not increased despite numerous recommendations to do so over a decade

Systemic issues are not addressed despite an Independent review recommendation to do so.

Possible ombudsman dis-harmonization across Canada

No indication the CSA has collaborated with banking overseers to ensure OBSI will remain intact.

At the same time, the antiquated CSA rules for Dealer complaint handling remain essentially untouched and very lightly overseen by securities regulators. Dealers will continue to not be held accountable for routinely shortchanging retail investor complainants.

All this for an entity that provides investors just \$1.3 million p.a. in compensation for industry wrongdoing. The proposed framework will ensure that dispute resolution is not fast, informal or efficient.

The framework clearly isn't ready for prime time but it a beginning of the journey to OBSI binding decisions on investment Dealers.

This letter may be publicly posted.

Peter Whitehouse
investor advocate