

## ***OBSI's Approach to Non-Financial Loss***

While recommendations to compensate "loss, damage or harm" are part of OBSI's mandate, we often get questions about our approach to what is commonly called non-financial loss, which doesn't involve monetary loss for a client.

These are the cases where we believe the loss or damage for the client goes beyond direct financial loss because of the distress or inconvenience involved. It may also involve loss of reputation, damage to credit ratings or loss of privacy.

While every file is unique, and we consider what is fair in all the circumstances, it's important for all parties to know that we look at cases and consider recommendations consistently.

### **What is a non-financial loss?**

A non-financial loss does not have a direct monetary value. In OBSI's dispute resolution process, a common example is the distress or inconvenience caused by a firm's maladministration or error.

### **Does OBSI recommend compensation for non-financial loss?**

For the most part, our recommendations for compensation are designed to put clients back where they should have been if there hadn't been an error or poor advice. However, occasionally we have a case where we believe the loss suffered goes beyond direct financial loss because of the distress and inconvenience, or other non-financial loss, involved. In those cases, we will recommend compensation to recognize that loss as well.

In some cases, we may also recommend compensation even when there is not a direct financial loss.

### **In addition to distress and inconvenience, are there other non-financial losses OBSI will look at?**

OBSI will also look at loss of reputation, damage to credit ratings and loss of privacy. In some cases of privacy breaches we may recommend that the complaint is better handled by the appropriate privacy commission.

### **When does OBSI *not* recommend compensation for non-financial loss?**

All clients experience some inconvenience when dealing with a dispute with their financial institution. OBSI will not recommend compensation for the distress or inconvenience that may be expected as a normal part of doing business or for the time and effort required to make a complaint, unless it exceeds what we believe to be reasonable under the circumstances.

We do not look at health issues, such as stress or other medical conditions, when assessing non-financial losses. Nor do we consider claims for pain and suffering.

Our recommendations to compensate for non-financial loss should not be viewed as punishments. Where warranted, that is the role of a regulator or court. Similarly, we do not levy fines or award punitive damages.

Non-financial loss does not include "indirect" financial losses. If, for example, a client takes time off work to resolve a complaint and loses income as a result, that may be considered in the calculation of financial loss depending on the circumstances.

### **How often, and how much, does OBSI recommend for non-financial loss?**

We have been making recommendations for non-financial loss since our office was formed in 1996. Except in extreme cases, the recommended compensation ranges from \$100 to \$5,000, but in most cases is less than \$1,000.

Clients who consider their non-financial losses to be significant, or who want damages in addition to reimbursement, may want to pursue their complaint through other avenues such as the courts.

### **Do recommendations for non-financial loss always mean a financial award?**

No. OBSI may recommend that firms compensate clients in ways that are not monetary, such as a letter of apology, restoring a product or service, correcting a credit bureau record or explanatory letters to a client's creditors.

### **What do we consider in determining the amount of recommended compensation?**

While there is no exact measuring stick for assessing fair compensation for non-financial loss, we will consider the following as we make our recommendations:

- Was the non-financial loss prolonged?
- Was the non-financial loss significant?
- Has the client been through a period of unnecessary financial hardship?
- Was the complaint process itself unnecessarily difficult or prolonged?
- Did the client contribute to their non-financial loss?