



# FREQUENTLY ASKED QUESTIONS

## Obligations of Firms

### As a participating firm, what are our obligations?

You have three key responsibilities:

- 1** Establish a clear and accessible internal complaint process, overseen by a senior staff person.
- 2** Promote this process to your clients. This includes advising them of their right to escalate a complaint to OBSI if they are unsatisfied with your response or it is over 90 days since filing the complaint.
- 3** Cooperate with OBSI investigations by making your staff available for interviews and providing required documents.

Other obligations can be found in OBSI's Terms of Reference or are regulatory requirements.

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## Complaint Considerations

### What complaints will OBSI review?

Most disputes can be resolved without our intervention. Before we consider a complaint, your client must first attempt to resolve their complaint with you.

We investigate a broad range of complaints concerning banking and investment issues, including:

- Mutual funds
- Bonds and GICs
- Stocks, exchange-traded funds, income trusts and other securities
- Investment advice
- Unauthorized trading
- Fraud
- Mortgages
- Loans and credit
- Debit and credit cards
- Fees and rates
- Transaction errors
- Misrepresentation
- Accounts sent to collections

When we find a complaint has merit, we can recommend compensation up to \$350,000.

### What complaints does OBSI decline?

- Complaints that are the subject of a court action or arbitration process that is ongoing or has ended with a binding decision.
- Complaints that were responded to by your firm, but were not brought to OBSI by your client within 180 days (subject to some exceptions).
- Complaints where a settlement has been offered and accepted.
- Complaints about general pricing, such as an interest rate on a credit card or account fees.

# The Complaint Process

## How are complaints processed?

Your client has the right to bring their case to OBSI if they are not satisfied with your final response to their complaint or at least 90 days have passed since the complaint was filed.

If these conditions are met, we then ensure that the complaint falls within our mandate. If it does not, we advise your client as soon as possible.

If the complaint does fall within our mandate, we get your client's permission to discuss their case with you, then collect and review all relevant material. Typically, this includes your final response letter.

Once the investigation is complete, we send a draft report to both you and your client for a brief commenting period. If we receive comments and we find that they have merit, we will revise our report. After the commenting period, you both receive a final report with our findings and recommendations.

## What information do you need from our firm and our client?

- Your final response to the complaint (typically sent to us by your client).
- All material relevant to your internal investigation, including:
  - Notes from conversations with your staff
  - Relevant emails or faxes
  - Account statements
  - Client records from internal databases
  - Transaction records
  - Opening agreements
  - Internal policies
  - Any other relevant correspondence
- We may also need to speak with staff involved.

## Can OBSI sanction firms, employees or advisors?

OBSI reviews complaints impartially and makes recommendations for compensation. Only regulators and the courts have the power to punish or fine firms or licensed individuals, such as investment advisors.

## How long does it take OBSI to respond to a complaint?

In general, we complete investment complaint investigations within 180 days. Where a case is complex, documents are not readily available, or cooperation is lacking on the part of either the firm or the complainant, more time may be required. We commit to keep you and your client informed of our progress. Banking complaint investigations are usually simpler to investigate and are completed within 120 days, as required by federal regulations.

## What about limitation periods?

We believe that access to our service, as an alternative to the courts, should be encouraged. As a participating firm, you will enter into an agreement with your client and OBSI to "stop the clock" during the investigation, where permitted by law.

If your client has a concern about their limitation period and the impact on their legal rights, we will advise them to seek legal advice.

## Privacy & Confidentiality

### How do you protect privacy?

We gather personal information about your clients only with their consent and use it only for the purpose specified. Please refer to the Privacy Statement on our website for full details.

### Is the information you collect confidential?

Confidentiality is key to our process. As an alternative to the courts, you and your clients are not permitted to use our report or other materials we develop, or involve our staff, as part of any subsequent legal action. This helps us build trust with both parties as we seek to find a fair outcome.

We request your permission before sharing any of the documents that you provide us with. However, we may need to refer to or summarize the facts in those documents in our final report. If there is any material that is particularly sensitive, please bring it to our attention.

While we produce case studies and compile statistics to promote our service, we do not release confidential information or refer to specific cases in a way that would identify you or your client in the normal course of our work. In the event that your firm rejects one of our recommendations, we do share the name of your firm and our investigation findings first with your regulator(s) and then with the public.

## Independence & Impartiality

### Are you a consumer advocate?

As an impartial service, we are neither a consumer nor an industry advocate. It's important that we maintain our impartiality so both sides of a dispute know they are getting a fair hearing. That also means we don't give financial or professional advice to your clients.

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## Fairness & Our Decisions

### How do you make your decisions?

We look at the unique circumstances of each particular case to determine a fair and reasonable outcome.

We also consider:

- Good financial services and business practices
- Accepted industry standards and practices
- Standards established by professional associations or your firm
- Laws, regulations and regulatory guidance

If we determine that you have acted fairly, or made a fair offer of compensation, we will advise your client accordingly. If we recommend compensation, we will aim to "make your client whole" by putting them in the financial position they should have been in if there hadn't been an issue. We do not recommend compensation for pain and suffering, aggravation or reputation harm, but may recommend other non-financial compensation, if appropriate.

## Does my firm have to follow your recommendations?

You do not have to accept our recommendations. However, if you refuse, we are required to make your failure to comply public (see Section 27, Terms of Reference). We have an excellent rate of acceptance by both firms and clients.

## Do clients have to follow your recommendations?

Clients are not obliged to accept our recommendations either. If a client is unsatisfied with the outcome of our investigation, they can pursue legal action or other avenues to resolve the dispute. Clients of IIROC member firms may be able to use its arbitration service.

If both you and your client accept our recommendations, we advise the client that you may ask them to give up any future claims about the complaint before they are compensated. We may also advise them to get professional advice before signing such an agreement. We typically do not remain involved at this stage, unless we think your firm is being unreasonable.

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# Appeals

## Can our firm appeal your findings?

OBSI's decision is final, as we are essentially the "appeal body" for clients who remain unsatisfied by their firm's proposed resolution. To maintain the independence and impartiality of our staff, our Board of Directors does not look at specific cases.

## Questions? We can help

Please don't hesitate to contact us at **1-888-451-4519** or **ombudsman@obsi.ca**. You can also find more details at **www.obsi.ca**.