



# Trusted. Impartial. Effective.



**OMBUDSMAN**  
for Banking Services and Investments | des Services Bancaires  
et d'Investissement

2013 Annual Report



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The Ombudsman for Banking Services and Investments (OBSI) is Canada's independent ombudsman for consumers and small businesses with a complaint they can't resolve with their banking services or investment firm.

- Independent not-for-profit organization operating in the public interest.
- May recommend compensation up to \$350,000.
- Free to consumers and small businesses.
- Non-legalistic approach, using principles of fairness to all the parties.
- Fully functional in both English and French. Able to handle inquiries in over 170 languages.
- Investigates complaints about most banking and investment matters including: mutual funds; bonds and GICs; stocks, exchange traded funds, income trusts and other securities; investment advice; unauthorized trading; fraud; debit and credit cards; mortgages; loans and credit; fees and rates; transaction errors; misrepresentation; and accounts sent to collections.

To conserve the environment and reduce costs, OBSI produced its 2013 Annual Report in electronic format. Should you require a hard copy, please contact us. We would be pleased to print one and mail it to you.

This Annual Report covers OBSI's 2013 fiscal year, which ran from November 1, 2012 to October 31, 2013.



Fernand Bélisle  
Chair, Board of Directors

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# Message from the Chair

As I complete my first year as Chair of OBSI's Board of Directors, I am very pleased with what has transpired. I spent much of my time during this period meeting with stakeholders to hear their views on the important role that OBSI plays in the financial sector and the various ways that different groups and individuals feel OBSI's performance could be enhanced.

The messages I heard were clear, although sometimes representing opposite ends of the spectrum. Industry seeks timelier and lower cost resolutions and more transparency in the approach OBSI takes to its mandate of determining fair outcomes to consumer and investor complaints. Consumer and investor advocates wish to have OBSI move beyond its current mandate to set right the perceived structural imbalances that may exist in the financial sector and the unbalanced relationship and information asymmetry between consumers and investors and their providers of financial services. Regulators clearly tasked OBSI with acting in accordance with its Terms of Reference to publicize those instances where a firm refused an OBSI recommendation for compensation. At the time of writing this message, the publication of investment firm refusals of OBSI recommendations has happened twelve times since November of

2012. Prior to this period, it had only happened once in OBSI's 17-year history.

I am pleased to reflect upon this most public aspect of OBSI's work in 2013. The publication of refused recommendations certainly attracted a great deal of attention from all stakeholders. The long-term impact of this new development is not yet clear. The short-term impact is very obvious. The published final reports of OBSI investigations made clear to all who cared to read them the nature of the investment complaints that come to OBSI as well as the depth of investigation and analysis that underlies OBSI's recommendations for compensation. I received much positive feedback on the quality of the published decisions and the analysis behind them.

It is worth noting that OBSI's investigations represent only a small piece of the financial



Looking ahead to 2014, our focus will be on smoothly integrating the new participating firms and ensuring that the same quality of decisions is maintained, while driving to conclude our work in a shorter time.

**FERNAND BÉLISLE**  
CHAIR

dispute-resolution framework. A much larger number of complaints are resolved at the firm level without ever coming to OBSI. Together with OBSI's work, this is the complaint handling system – the alternative to the courts – as it is meant to function.

More recently, the Canadian Securities Administrators (CSA) have expanded OBSI's mandate to other segments of the securities marketplace. Later in 2014, OBSI will take on many new participating firms from the exempt market dealer and portfolio management registrant categories. The remaining scholarship plan dealers (SPDs) will also join those SPDs that previously joined OBSI on a voluntary basis some years ago.

This year also saw OBSI make formal application for approval by the Minister of Finance as an External Complaint Body (ECB) under federal regulations. This required that OBSI transition its corporate structure to fall under the new federal not-for-profit legislation, which we successfully accomplished in the summer. I was pleased to see that all of the previously participating banks chose to remain with OBSI for 2014 and that several new banks also elected to join. The maturity of the complaint-handling system in the banking sector continues to serve bank consumers well and OBSI is proud of its continued role in this industry success story.

Looking back, all of the stakeholder views that were shared coupled with the new regulatory developments created an active year for OBSI's Board of Directors where we consulted broadly and implemented changes to OBSI's Terms of Reference and Bylaw to clarify the mandate OBSI will perform going forward.

Looking ahead to 2014, we will focus on smoothly integrating the new participating firms and ensuring that the same quality of decisions is maintained while driving to conclude our work in a shorter time. In this way, more firms and their clients can benefit from a timely and impartial review, which can lead to an earlier resolution to their dispute.

We will strive to give life to our new Memorandum of Understanding (MOU) with the CSA as well as the federal banking complaint-handling regulations. We will look at our complaint-handling process to ensure that investors and consumers continue to benefit from a free, accessible and impartial review of their investment and banking complaints. We will find the opportunities to enhance our process so that investors and consumers, and their firms, receive a fair and reasonable final response from OBSI in the shortest timeframe possible.

Finally, over the course of the year we will also respond to the requirements in the MOU and bank regulations that we make regulators aware of the issues we encounter in our work. In this way, we will contribute to the ongoing improvement of the regulatory and consumer/investor protection framework in Canada. These issues also provide opportunities for governments, regulators, and community-based organizations to engage in targeted financial literacy to improve the financial lives of Canadians.

In conclusion, I join with the Board of Directors to thank OBSI's management and staff for their continued efforts to bring their skills and judgment to bear in determining fair outcomes to often difficult situations. We are only as good as the team we have assembled to perform this important mandate. This past year has given all stakeholders and the general public a clearer view of the quality and integrity of that work. The expanded mandate entrusted to OBSI by Canada's securities regulators is a reflection of that and the staff should be proud of this achievement.



**Fernand Bélisle**  
Chair, Board of Directors



Douglas Melville  
Ombudsman

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# Message from the Ombudsman

Neither a consumer nor industry advocate, OBSI was created to help achieve fair resolutions to disputes between Canadians and their financial institutions. In the vast majority of complaints we have looked into since our office's creation, this outcome has, happily, been achieved.

It is well-known by now that in the past couple of years OBSI was faced, for the first time, with a number of cases where firms were refusing to compensate their clients as our investigations found were warranted. A firm's refusal to follow an OBSI recommendation means that we must publicize the refusal as well as our investigation's findings. Although it is the principal tool that OBSI was endowed with to incent firm cooperation, most expected that it would never need to be used.

Following a series of extraordinary efforts to resolve the complaints over an extended period, OBSI prepared to announce the compensation refusals. As we did, though, we faced a series of unknowns. Required to publicize our investigation findings, would others agree with our conclusions? What would the impact be on our dispute resolution process and future complaints brought to our office?

Faced with unknowns, some choose to close their eyes, do nothing, and hope that with the passage of time greater clarity will emerge. Alternatively, one can step into the unknown in a leap of faith, with quiet confidence that you are prepared and ready to walk down a new path.

OBSI stepped into that unknown.

We knew there would be great scrutiny of our conclusions by all interested parties. Sometimes, when the work that you do is confidential, it is difficult to know whether it is meeting the expectations of the broader stakeholder community. As an organization tasked with a public interest mandate, it is vital that our work does meet those expectations. Yet, in most complaints reviewed by OBSI, the complainant and firm are the only ones who see our work. This past year, as

we entered a “new normal” of regularly announcing compensation refusals, we had the chance to hear about our work from many different stakeholders, as they saw it through our investigation reports for those cases. This enabled everyone to see the nature of complaints that remain unresolved by some firms and are escalated to OBSI each year. It also let everyone see the depth of investigation and analysis that underlies our work in coming to a fair and impartial conclusion.

Judging from the reactions of stakeholders to our published reports, our leap of faith was justified. The careful and objective review of each complaint, and the depth of analysis performed, resulted in decisions which spoke for themselves and reflected very favourably upon the skill and experience of OBSI staff. The feedback on the complaints themselves was also surprisingly consistent: almost all said that they involved situations where the investors were clearly deserving of compensation. This view was shared by many in the financial industry, demonstrating that while there have been some unfortunate incidents of firms not fulfilling their obligations to their clients, most financial services firms do believe in doing right by their customers when mistakes occur. That most cases continue to be resolved successfully, despite the fact that announcements of refusals are no longer quite the novelties they once were, is further testament to this fact.

**OBSI will continue focussing our finite resources on ensuring that we reach fair and reasonable conclusions on all complaints, and hope that all stakeholders understand the role we have been tasked to perform.**

**DOUGLAS MELVILLE**  
OMBUDSMAN

While gratified by the positive reaction to our work, over the past year we have also heard frustration with OBSI’s inability to impose our conclusions on firms. While we understand the concern, it should be considered in proper context.

Until this past year, in the over 17 years since OBSI’s predecessor – the Canadian Banking Ombudsman – was formed, OBSI had been forced to announce a firm’s refusal of a recommendation only once. Now there have been thirteen, out of the thousands of complaints OBSI has reviewed over the years. The implications of this new development are still to be determined and it is clear that there will be more refused recommendations and therefore more publicized refusals. OBSI and the financial regulators who oversee us will evaluate the impacts this will have over time, but so far these refusals of OBSI recommendations remain the exception, not the rule. Firms successfully resolve the vast majority of complaints that OBSI investigates.

OBSI can bring an impartial and knowledgeable perspective to a complaint review and recommend where we conclude the complaint has merit. Whether this effectively resolves the complaint depends upon the decision of the participating firm. If they disagree, we will continue to make public their refusal to compensate their client as we are required to do. The client will still retain the right to pursue the matter through other means, including the courts.

It is the nature of the beast that no matter what our conclusions are, one of the parties – either the firm or the complainant – will most likely be unhappy with the result. To vary an old axiom, to some “it’s not business, it’s personal”. OBSI will continue focussing our finite resources on ensuring that we reach fair and reasonable conclusions on all complaints, and hope that all stakeholders understand the role we have been tasked to perform.

While the development came after our 2013 fiscal year, I would be remiss in not noting the decision by the Canadian Securities Administrators in December of 2013 to expand OBSI’s mandate to include exempt market dealers, portfolio managers, and scholarship plan dealers, extending the benefits of an independent and impartial review of complaints to a new group of Canadian



investors. This is a most welcome development and a tremendous vote of confidence in our work from Canada's securities regulators.

We are reaching out to the hundreds of new participating firms that will join OBSI later in 2014 as a result of this change. The volume of investor complaints to be expected from these firms is as yet unknown as we prepare to take on this new challenge. We look forward to working with these new categories of participating investment firms to ensure that the process works for both them and their clients, and results in fair and timely conclusions.

To my colleagues at OBSI, thank you for your efforts to reach fair and impartial conclusions on the hundreds of complaints we reviewed in depth this past year. The integrity of your work, some of which has been made public for all to see, gave enormous confidence to securities regulators as they considered whether to expand OBSI's mandate. To our Board of Directors, our thanks for your strong support, engagement, and guidance.

In conclusion, I wish to note with sorrow the passing of Robert Elliott, a Partner at the law firm Fasken Martineau and OBSI's long-serving Corporate Secretary. He was a valued friend and colleague to many here at OBSI and in Canada's financial sector. Rob was involved in the original

concept and establishment of our office. Not only did he provide wise counsel to our Board of Directors over the years, but he also supported OBSI management and staff in many ways that improved our service for both complainants and participating firms.

Looking forward to 2014, our priorities will be to successfully incorporate the expanded mandate from securities regulators and review our operations to find ways to provide the same quality of decisions in a shorter timeframe. Successfully meeting these two objectives will result in more consumers and firms benefitting from a quicker review of their dispute. Achieving this desirable outcome will require the continued cooperation of both complainants and participating firms. I thank all those firms that worked constructively with OBSI through 2013 to resolve complaints fairly for their clients. Together, we have made a difference.



**Douglas Melville**  
Ombudsman

# Dispute Resolution



# Who We Are

The Ombudsman for Banking Services and Investments, or OBSI, is Canada's national independent dispute resolution service for consumers or small businesses with a complaint they can't resolve with their financial services firm.

Established in 1996 as an alternative to the legal system, we work confidentially and in a non-legalistic manner to find fair outcomes to unresolved disputes about banking and investment products and services. We are free to clients. Our funding is provided from a levy on all participating firms. If we find an error, misleading advice or other maladministration that has caused a loss to a client, we may recommend compensation up to a maximum of \$350,000. Our independence is assured by a board of directors with a majority of community directors and strong safeguards for our independence and impartiality.

## How We Work

Our staff review and investigate unresolved complaints from customers about banking and investment products and services.

If we find the firm has caused a loss, we will recommend a settlement that aims to make the complainant whole. We may also recommend

compensation for inconvenience in the appropriate circumstance, or non-financial actions such as correcting a credit bureau record. If we find the firm has acted appropriately, we will explain to the complainant why we came to that conclusion.

When we receive a complaint, our assessment team looks at the file to make sure it falls within our mandate. For instance, the firm has to be one of our participating banks, credit unions, investment dealers, mutual fund dealers and managers, exempt market dealers, portfolio managers and scholarship plan dealers. We also look for a final written answer from the firm to the complainant, which allows us to start our review knowing the positions of both parties. OBSI will look at disputes where the complainant is either unsatisfied with their firm's final response, or at least 90 days have passed since they first complained to their firm and the complaint remains unresolved. The individual must raise the complaint with their firm within six years of when they knew or should have known of the problem.

During an investigation, we gather information from the parties and review the facts of the case. We make decisions based on what's fair to both the complainant and the firm, taking into account general principles of good financial services and business practices, the law, regulatory policies and guidance, and any applicable professional body standards, codes of practice, or codes of conduct.

If we believe that the facts of the case do not warrant further review, we will let the complainant know quickly. We always make sure that we explain our reasons, just as we do when we are recommending compensation.

If we believe compensation is owed to the complainant, we try to resolve the dispute through a facilitated settlement between them and the firm that aims to address the complaint quickly with a fair outcome to both parties.

If we can't facilitate a settlement but we continue to believe the complainant should be compensated, we will complete our investigation and prepare an investigation report. We will send a draft investigation report to the firm and to the complainant for a brief comment period. Following the comment period, we will send both parties a final report that sets out our recommendation.

Neither a court nor a regulator, OBSI does not fine or discipline firms or individuals. Our recommendations are not binding on either party, but we have an excellent record of acceptance of our recommended settlements from both firms and clients: over 99.8% of the thousands of complaints brought to OBSI since our organization's inception have been successfully resolved.

While we do not handle matters that have already been through a court or an arbitration, if a client is not satisfied with our conclusions they are free to pursue their case through other processes including the legal system, subject to statutory limitation periods.

### **Our Commitment to You**

OBSI is committed to excellence in our dispute resolution service. Our standards are designed to ensure a high-quality, independent and fair dispute resolution process for consumers and providers of financial services in Canada.

Our Code of Practice commits us to achieving high standards of excellence in 11 separate areas of our operation and governance including accessibility, fairness and independence, timeliness and competence. These standards were based in part on emerging international complaint-handling standards through the International Standards Organization (ISO 10003).

OBSI must submit itself to rigorous, independent third-party evaluations on a regular basis. Our most recent review was conducted in 2011 and found that OBSI was a world-class service in many respects.

### **Participating Firms**

All financial services firms active in banking services or investments that are regulated by the federal or provincial governments are eligible to become a participating firm of OBSI.

#### **Current participating firms include:**


- Domestic and foreign-owned banks
- Credit unions
- All Investment Industry Regulatory Organization of Canada (IIROC) member firms
- All Mutual Fund Dealers Association of Canada (MFDA) member firms
- Mutual fund companies
- Exempt market dealers
- Portfolio managers
- Scholarship plan dealers
- Forex trading services
- Federal trust and loan companies and other deposit-taking organizations

All banking services and investment firms are eligible to join OBSI.

### **Our People**

OBSI's experienced and professional staff are drawn from a variety of fields and disciplines such as law, accounting, banking, investments, and regulatory compliance. Our staff are committed to conscientious, fair and timely dispute resolution, which is evident in their dealings with all parties. All have extensive training and experience in financial sector dispute resolution.

Our team of consumer assistance officers responds to the thousands of inquiries and complaints that are received online and by phone, email, letter and fax each year. We have two teams of investigators responsible for reviewing and investigating files in depth – one for banking services and the other for investments.



Our team of consumer assistance officers respond to thousands of initial inquiries and complaints

#### The Senior Management Team consists of:

**Douglas Melville** Ombudsman and Chief Executive Officer

**Sasha Angus** Senior Deputy Ombudsman and Chief Operating Officer

**Robert Paddick** Deputy Ombudsman, Investments

**Brigitte Boutin** Deputy Ombudsman, Banking Services

**Tyler Fleming** Director, Stakeholder Relations and Communications

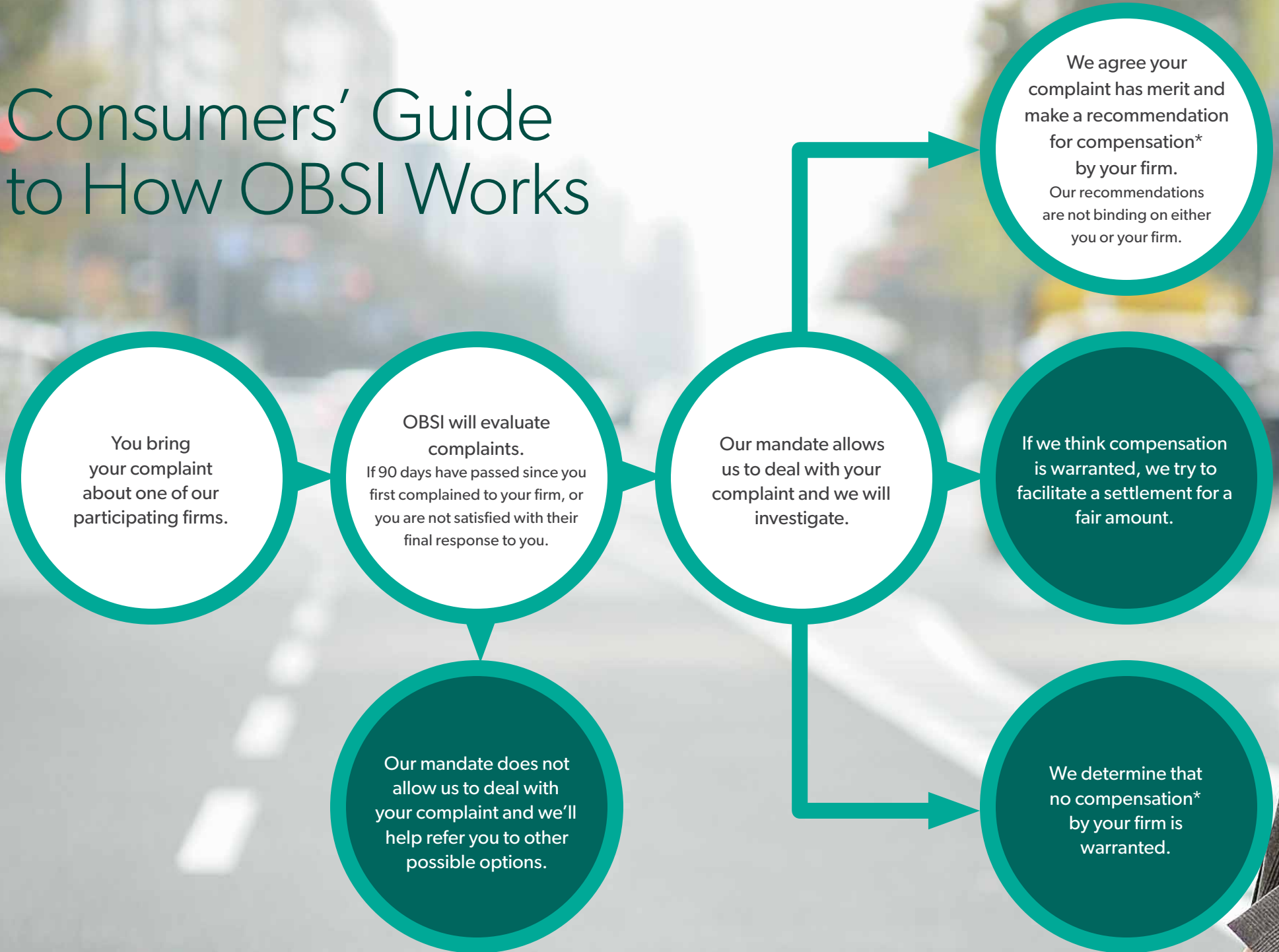
**Marjolaine Mandeville** Manager, Administration

#### Language Services

OBSI functions in both of Canada's official languages, English and French. OBSI's complaint intake centre is also equipped to receive inquiries in over 170 languages. We use an international telephone-based service that allows us to connect a phone call we've received from someone who doesn't speak French or English to an interpreter, literally in seconds. The interpreter helps us understand the nature of the inquiry or complaint and makes sure the client can comprehend our instructions as well.

Our language service has been accessed by callers speaking Mandarin, Hebrew, Cantonese, Punjabi, Arabic, Russian, Tamil, Tagalog, and Italian, among others. While we can't offer to do a full case review or investigation in languages other than French or English, the interpreters help us explain to clients how OBSI works and point them to community resources where they can receive language assistance.

# Consumers' Guide to How OBSI Works





\* In some cases, recommendations do not involve compensation (e.g., restored credit bureau ratings).

A close-up photograph of a person wearing a light blue, patterned button-down shirt. The person is holding a black pen and writing in a spiral-bound notebook. The background is softly blurred, showing the person's face in profile on the left side. The overall tone is professional and focused.

# What's New in 2013

In some instances, events described in this section took place right at the beginning of our 2014 fiscal year. We report on them now in the interests of timeliness and relevance.



### CSA Approves Expanded Mandate For OBSI

The Canadian Securities Administrators (CSA) approved amendments to National Instrument (NI) 31-103 and Companion Policy 31-103CP that will require all registered dealers and advisers outside of Quebec to use OBSI as their provider of dispute-resolution services.

Currently, all members of the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA) are required to participate in OBSI through their self-regulatory organization's (SRO's) rules. In addition, many investment firms have participated in OBSI on a voluntary basis, including all members of the RESP Dealers Association of Canada (RESPDAC). With the amendments to NI 31-103 the CSA is expanding OBSI's membership to include all portfolio managers, exempt market dealers and scholarship plan dealers outside of Quebec whose clients are individuals.

All registered dealers will be required by the CSA to become participating firms of OBSI and to participate in our dispute-resolution process in a manner consistent with firms' obligations to deal fairly, honestly and in good faith with their clients. All registered dealers must also be members of OBSI in good standing by August 1, 2014, including having fully paid the required OBSI

membership fees. OBSI is committed to working closely and collaboratively with all incoming participating firms, and their industry associations, to ensure the transition to mandatory membership in OBSI goes smoothly.

Under NI 31-103, OBSI's membership will more than double to almost 1600 firms in the financial industry.

### Memorandum of Understanding with the CSA

In conjunction with the amendments to NI 31-103, OBSI signed a Memorandum of Understanding (MOU) with the CSA that provides for securities regulator oversight of OBSI as well as a framework for cooperation and communication. The oversight framework provides standards for OBSI to meet with respect to:

- governance
- independence and standard of fairness
- processes to perform functions on a timely and fair basis
- fees and costs
- resources
- accessibility
- systems and controls
- core methodologies for dispute resolution

- transparency in respect of material changes to OBSI's operations or services, including material changes to our Terms of Reference or Bylaw
- information sharing with the CSA, including regarding issues that appear to affect multiple clients of one or more firms

A Joint Regulators Committee (JRC) was established which includes representatives of the CSA's designates (the Alberta, British Columbia, and Ontario Securities Commissions), IIROC and the MFDA. OBSI will meet with the JRC on a regular basis to discuss governance and operational matters, as well as significant issues that could impact the effectiveness of the dispute-resolution system.

### New Terms of Reference

OBSI's Board of Directors approved changes to our Terms of Reference following an extensive public consultation.

OBSI's Terms of Reference embody the dispute-resolution mandate that our organization performs for the banking and investment industries. They expand on the mandate contained in our Bylaw and Articles of Incorporation by describing the principal powers and duties of OBSI, the duties of participating firms, the scope of the mandate, and the process OBSI uses to receive, investigate and seek resolution of financial services customer complaints.

In June, OBSI issued a proposal for revised Terms of Reference for a 60-day public consultation. The consultation was another step in our governance reform process, initiated in 2011, that saw, among other things, a new corporate Bylaw adopted and significant renewal of the Board of Directors, including the appointment of a new Chair.

During the consultation period we received 28 submissions from stakeholders. OBSI's Board would like to thank all stakeholders who took the time and effort to provide feedback on the Terms of Reference proposals.

Two of the changes that generated significant feedback pertained to systemic issues in the complaint-handling context and the investigation of segregated fund complaints.

Systemic issues are ones that are discovered during the investigation of an individual complaint that OBSI believes may have affected, or have the potential to affect, a large number of consumers at the same firm and caused financial harm. OBSI took on the mandate to investigate systemic issues in 2010 at the request of financial regulators, including the federal Department of Finance, in response to a 2007 independent review of our operations. As noted in our original consultation paper, in

**All registered dealers must be members of OBSI in good standing by August 1, 2014, including having fully paid the required OBSI membership fees.**

developing regulations concerning banking dispute resolution the Department of Finance adopted a new policy direction: any potential systemic issues identified in the investigation of an individual complaint must be referred by external complaint-handling bodies such as OBSI to the federal regulator, the Financial Consumer Agency of Canada (FCAC), leaving the investigation of the issues to the FCAC.

In accordance with regulatory requirements, OBSI will continue to report both publicly and to regulators on general trends and themes we see in the complaints we investigate. OBSI will also report to the appropriate regulators any potential systemic issues identified during the review of individual complaints, as required by federal regulation and the MOU with the CSA. But, OBSI will no longer take on the actual investigation of systemic issues, consistent with the new regulatory framework.

Another change that generated significant comment was our specifying that insurance affiliates of OBSI participating firms do not fall under our jurisdiction. As a result, OBSI will refer the investigation and analysis of segregated funds (an insurance investment product) to the Ombudservice for Life and Health Insurance (OLHI), the ombudsman for the life and health insurance sector, which manufactures segregated funds and distributes them through licensed agents.

The Board's full response to stakeholder feedback can be found on our website.

### **External Complaint Body Approval (Banking)**

Federal *Bank Act* regulations were finalized this year allowing for-profit entities to compete with OBSI for banks external complaint-handling business. Any External Complaint Body must be approved by the Minister of Finance in order to be eligible to become a supplier to the banks. The Financial Consumer Agency of Canada (FCAC) is tasked with overseeing the application process and making recommendations for approval to the Minister of Finance.

OBSI has been the leader in moving through the FCAC's application process. We submitted our application – three large binders of documentation outlining such things as our policies, processes,

competencies and safeguards for independence – on the very first day it was possible to do so. We were also the first to reach the public consultation stage required by the FCAC, whereby notices were placed in national newspapers and the Canada Gazette inviting comment on our application.

OBSI is confident that our application will be approved. Because the application process is lengthy, we do not currently have a sense of when approval is likely to be granted. We will keep stakeholders apprised of any developments as they occur.

### Canada Not-For-Profit Corporations Act

In order to qualify for approval by the Minister of Finance as an external complaint body, OBSI is required to be incorporated under the recently adopted *Canada Not-for-profit Corporations Act*. OBSI transitioned to incorporation under this legislation early, in August, in order to be able to submit our application for approval on the first day possible, as noted above. All other federal not-for-profit corporations must continue under the new Act no later than October 17, 2014.

### New Member Banks

Our banking services membership grew by more than 15% over the past year, as the overwhelming majority of Canadian banks continue to make OBSI the first choice in dispute-resolution. New member banks include:

- Rogers Bank
- Wells Fargo
- Barclays
- Citco
- BNP Paribas
- Shinhan Bank
- CTBC
- Merrill Lynch

We look forward to working with all of our new participating firms to provide the high-calibre dispute-resolution Canadians have come to expect.



## Compensation Refusals

Since OBSI's inception, the overwhelming majority of complaints brought to our organization have been successfully resolved. Those complaints that end in refusals by firms to compensate their customers have historically been very rare: over 99.8% of the thousands of complaints brought to OBSI since the organization's inception have been successfully resolved.

In other cases, however, firms simply did not agree to compensate their customers when it was warranted. Having exhausted all avenues to settle these complaints, OBSI was then required under our Terms of Reference to publicize the refusals.

The following firms refused OBSI compensation recommendations since the publication of our last Annual Report:

### Connor Financial

Connor Financial refused to compensate multiple retail investors in the amounts of \$93,030, \$54,109, \$189,878 and \$250.

Connor Financial is a mutual fund dealer based in Victoria. The clients' investment advisor, Mr. C, is the founder, president, and sole director, compliance officer, shareholder, and investment advisor of Connor Financial.

The first complainants, Mr. and Mrs. H, were a retired elderly couple who relied on their investments for income. Another complainant, Ms. B, was a 67-year-old semi-retired hairdresser. The third complainant, Ms. H (no relation to Mr. and Mrs. H), had Canada Pension Plan (CPP) disability payments as her only source of income. Connor Financial placed some or all of their portfolios in high-risk investments that were unsuitable given their personal and financial circumstances, investment objectives and/or risk tolerance.

In a fourth case the complainant, Ms. T, incurred tax penalties when Connor Financial inappropriately redeemed securities held in her RRSP to cover an investment loan. A settlement proposal of \$250 was rejected by Connor Financial.

### De Thomas Financial

De Thomas Financial refused to compensate a retired retail investor in the amount of \$254,323.

De Thomas Financial is a mutual fund dealer based in the Greater Toronto Area, with branch offices in British Columbia, Quebec and other parts of Ontario. The investor, Mrs. R, had no previous investment experience and almost completely relied on her advisor at De Thomas Financial.

Mrs. R's advisor recommended an unsuitable strategy of borrowing money to invest (also known

as leveraging) in her non-registered account. He also recommended unsuitable investments for Mrs. R's Registered Retirement Income Fund (RRIF). Mrs. R was forced to use her RRIF withdrawals to cover the investment loan, even though they were needed to meet day-to-day expenses. It was not until after Mrs. R's children found unpaid bills in her home that the unsuitable strategy and investments were discovered and unwound.

### Union Securities

Union Securities refused to compensate a senior investor in the amount of \$325,122.

Union Securities is a British Columbia-based investment firm. It has applied for resignation from the Investment Industry Regulatory Organization of Canada (IIROC) but the application has not yet been approved as of the date of this publication.

Mr. S was an unsophisticated investor who relied entirely on the advice and recommendations of his Union Securities advisor. He was retired, had no private pension plan, and had been counting on income from his investments to fund his retirement.

Mr. S's advisor at Union Securities first recommended that he invest all of his money in a single stock that was the subject of an uncertain takeover bid. That takeover bid later failed,

resulting in a significant decline in the stock's value. The advisor also recommended a margin account that was entirely unsuitable for Mr. S and made unauthorized trades in the account. The advisor never informed Mr. S of the risks of the recommendations or that he could potentially lose substantial amounts of money. By the time Mr. S closed his account with Union Securities he had lost almost all of the money he had invested.

IIROC staff also took enforcement action in this matter. Following a hearing, the panel found that the Union Securities advisor failed in his suitability obligations to Mr. S and engaged in unauthorized trading in his account.

### Keybase Financial

Keybase Financial refused to compensate a retail investor in the amount of \$73,884.

Keybase is a mutual fund and exempt market dealer based in Markham, Ontario, with offices across the country. The complainant, Mrs. O, was an unsophisticated investor from Alberta who trusted and relied heavily on her Keybase advisor.

Mrs. O's Keybase advisor placed her in two mortgage investments that were subsequently lost, the second of which was made without Mrs. O's authorization. Both investments were made without Keybase's knowledge

("off-book"). Despite this, our investigation found that the firm missed important warning signs and had several opportunities to prevent both mortgage investments from ever happening. Keybase was therefore held responsible for the actions of its representative in this case.

While OBSI found that Keybase is mostly responsible for the losses incurred by Mrs. O as a result of the two mortgage investments, OBSI also found that Mrs. O bore some responsibility for her losses, as did a firm not party to the complaint. The recommended compensation amount was reduced accordingly.

### Northern Securities

Northern Securities refused to compensate retail investor clients in the amount of \$16,022.

Mr. and Mrs. B were a retired couple from Toronto. Northern Securities is a Toronto-based investment firm whose membership in the Investment Industry Regulatory Organization of Canada (IIROC) was suspended after the firm failed to maintain adequate capital levels. OBSI did not uphold most of Mr. and Mrs. B's complaint about Northern Securities, though on one aspect of their complaint we found in their favour: the couple's advisor at Northern Securities, Mr. T, recommended an investment in a Stelco bond that was unsuitable given their low-risk, income-producing investment objectives. As a result of the Stelco investment,

Mr. and Mrs. B suffered compensable losses of \$16,022, which Northern Securities refused to pay.

**Additional compensation refusals that took place during our 2013 fiscal year were reported on in last year's Annual Report in the interest of timeliness.**

### Speeding Up OBSI's Process

In an effort to reduce the average time it takes to resolve complaints, OBSI is experimenting with the following changes to our internal processes:

#### Shorter written reports

OBSI has traditionally written lengthy investigation reports whose aim was to persuade firms and complainants to accept OBSI's point of view. These reports require significant staff and management resources to ensure that every counter-argument raised is addressed. They were also written to ensure that they could be easily read by uninvolved third parties in case the report ended up being released publicly as a result of a firm's refusal to compensate an investor.

Going forward, investigation reports for most complaints will be limited to an overview of the complaint, the firm and complainant's position, an articulation of OBSI's findings and recommendation, and the basis for our conclusion.

#### Use of case summaries

Some complaints brought to our office have little

prospect of settlement no matter the outcome of our investigation.

Sometimes, OBSI has a complaint open against a firm that is deregistering or winding down its operations, is suspended from its self-regulatory organization (SRO), or otherwise exists as a going entity in name only and will not pay any recommended compensation. In such instances, OBSI will no longer spend time and effort trying to resolve the case. If a conclusion has been reached but an investigation report is not yet finalized, the outcome will be announced through a brief summary of the complaint and OBSI's findings. OBSI will not conduct any further work on complaints against such firms. If no conclusion has yet been reached by OBSI, the file will simply be closed.

Other times, a viable, operating firm has declared that it will simply not compensate the complainant any amount, no matter what our conclusions are. In such instances, we will complete the investigation but announce our recommendations through a one- or two- page summary that outlines the facts of the case, our conclusions, and a range of compensation that we determined was fair and reasonable (if an exact determination is not possible). We will not expend further time and resources to draft an exhaustive investigation report if a refusal to compensate is certain.

### **Quick movement to announcements of refusals**

After OBSI reached a conclusion in a case, there would often still be a very lengthy period of time spent addressing the firm's concerns and questions during the report comment period if it was not yet persuaded to pay an OBSI recommendation. This was done in an effort to obtain the firm's agreement to a fair resolution to the complaint in instances where compensation was warranted. In practice, this introduced a sort of moral hazard into OBSI's process: firms were encouraged to draw out the process, whether to postpone eventual payment or to avoid making a final refusal to compensate, which OBSI would then announce publicly. Following the report review period, OBSI will now send a final report to the parties with a rigid period of notice that the compensation refusal will be announced. Extensions to the review period of 48 hours will only be made with Ombudsman or Senior Deputy Ombudsman approval and will be granted only in exceptional circumstances.

These three initiatives are expected to increase efficiency and investigator capacity, enabling OBSI to assign new cases to investigators faster.

OBSI will also be pursuing the following measures to reduce the average time it takes to resolve complaints:

### **Tighter management of firm and complainant deliverables**

Firm and complainant-caused delays contribute significantly to longer complaint-resolution times. Delays in signing consent letters, providing files, scheduling interviews, responding to follow-up questions from OBSI staff, and commenting on draft reports all add time to the process and consume OBSI's limited staff and management resources.

OBSI will now more tightly manage both internal and external delays. In the case of unreasonable complainant delays, OBSI will close the file. In the case of firm delays, OBSI will be quick to escalate issues of non-cooperation to the appropriate regulator. If that fails to achieve satisfactory cooperation, we will also be quicker to publicize firms' non-cooperation. This power is contained in Section 28 of OBSI's Terms of Reference but has yet to ever be used.

### **Blanket tolling agreement**

The time permitted to commence legal action after the date an alleged grievance occurred is known as a limitations period. In Canada these time limits vary among the provinces and territories. A tolling agreement is the name for an agreement that stops the clock on the limitations period, and is permitted in every Canadian jurisdiction except Quebec.

All participating firms are already required, where permitted by law, to enter a tolling agreement while OBSI considers a complaint. Most banks and bank-owned investment firms have also voluntarily signed a separate blanket tolling agreement that automatically suspends the limitation period for all complaints about their banking divisions. OBSI will now be implementing a blanket tolling agreement with all firms to speed up the front end of our process and avoid unnecessary delays caused by discussions with individual firms over the tolling agreement.

While considering these experimental changes to speed up our process, OBSI was guided by the principle that the fairness values underlying OBSI’s mandate must be adhered to. We are confident that with these changes, and the cooperation of both firms and complainants, OBSI can create a more timely process that remains fair to all parties.

In addition to the experimental changes described above, an end-to-end review of OBSI’s internal process is currently being conducted by consultants specializing in process re-engineering. Their report is expected to be complete by the spring of 2014. This review will likely yield further recommendations to improve the timeliness of OBSI’s dispute-resolution process.

This renewed effort to improve the speed of OBSI’s process is possible because of the

successful completion of several reform initiatives that took up significant organizational time and capacity: substantial governance reform that saw, among other things, a new corporate Bylaw, the appointment of a new Chair, sizeable renewal of the Board of Directors, and new Terms of Reference; extensive consultation that resulted in several enhancements to OBSI’s investment suitability and loss assessment methodology; and, the closure of all of the “stuck” cases that were previously identified by securities regulators as eligible for an independent review of OBSI’s conclusions.

**INFO Chair**

In September, OBSI’s Ombudsman and CEO Douglas Melville was elected as the new Chair of the International Network of Financial Ombudsman Schemes (INFO), the global organization of financial Services ombudsman and other independent schemes/offices operating as out-of-court dispute resolution mechanisms in the financial sector. “This appointment is a reflection of the high regard that OBSI is held in by the rest of the world as well as the effort that Doug has put into elevating global dispute-resolution standards and practices,” said Fernand Bélisle, OBSI’s Board Chair.

**Robert Elliott**

Robert Elliott, BA, MA, LL.B., OBSI’s former Corporate Secretary and partner with the law firm



**Robert Elliott**

Fasken Martineau, passed away in December 2013 after a long fight with cancer.

Rob was a leading expert on financial sector regulation in Canada and served as OBSI’s Corporate Secretary from 1996 until 2012, when he stepped away from the role to focus on his health. Rob was intimately involved in the creation of OBSI’s predecessor, the Canadian Banking Ombudsman, in 1996 and helped guide our evolution into the organization we are today.

All who had the privilege of knowing Rob appreciated his kind, calm and generous nature. Rob had a great intellect and rich insight that he brought to every interaction, and to every challenge. His approach to his last and greatest challenge was no different. He will be greatly missed.



Julia Dublin

### Consumer and Investor Advisory Council

OBSI's Consumer and Investor Advisory Council was created to provide the input of consumers and investors into OBSI's governance and operations, to complement the input OBSI regularly receives from industry stakeholders and regulatory and government officials.

Throughout 2013, the Council was active and engaged in fulfilling its mandate. Its activities

included: meeting with and making submissions to OBSI's Board of Directors; providing input directly to OBSI management; liaising with other consumer and investor representatives; and, making public statements on issues of concern.

In 2013 two new members joined the Council, and two others stepped down. OBSI welcomes the new members and would like to thank the departing members for their dedication and effort over the past few years.

### The membership of the Council in 2013 was as follows:

**Julia Dublin, Chair** Corporate and securities lawyer in private practice as well as Adjunct Professor at Osgoode Hall Law School teaching advanced securities law. Worked with the federal Department of Justice for four years, and subsequently with the Ontario Securities Commission (OSC) for 18 years. Seconded from the OSC to the federal Department of Finance in 1992-93 as special adviser on securities regulatory issues connected with financial institutions.

**John Lawford\*** Executive Director and General Counsel to the Public Interest Advocacy Centre (PIAC). Expert in the areas of e-commerce, privacy, financial services and health law from a consumer perspective.

**Ermanno Pascutto** Founder and Executive Director of the Canadian Foundation for the



Advancement of Investor Rights (FAIR Canada). Executive Director and head of staff of the Ontario Securities Commission 1984-89. Vice-Chairman of the Hong Kong Securities and Futures Commission 1989-94. Independent director of Market Regulation Services 2004-2008. Over 30 years' experience as a senior regulator and practicing Canadian and Hong Kong securities lawyer.

**James R. Savary** Associate Professor of Economics Emeritus at York University in Toronto, specializing in financial institutions and markets and in monetary theory and policy. He is a member of the Board of Directors of the Travel Industry Council of Ontario, and a member and Past-Chair of the Board of Directors of the Canadian Automobile Arbitration Plan. He is also an active participant in the work of the Canadian Standards Association and the Standards Council of Canada.

**Eric Spink, QC\*\*** Lawyer specializing in securities law, policy and adjudication. Former Director of Enforcement and Vice-Chair of the Alberta Securities Commission, and Executive Director of Capital Markets Policy at Alberta Finance. Chair of a not-for-profit corporation established in 1998 to fund specific projects to educate the public and entrepreneurs about investing and capital formation.

**Richard Swift, QC\*\*** Senior partner of an 11-lawyer firm in Courtenay on Vancouver Island, B.C., whose practice relates primarily to advising land developers and small business owners. Former Chair of the Board of Governors of the British Columbia Institute of Technology (BCIT), and former Vice-Chair of the Land Title and Survey Authority of British Columbia. Chair of the Patient Care Quality Review Board for the Vancouver Island Health Authority.

**Laura Small\*** Past-President of the Canadian Council for Small Business and Entrepreneurship. CEO of Women Entrepreneurs of Saskatchewan Inc. Served in various capacities with the Saskatchewan Attorney General's office and Western Economic Diversification Canada.

**Laura Tamblyn Watts** Lawyer and Principal with Elder Concepts, a consultancy specializing in working with organizations, governments and industry on issues relating to aging, elder abuse prevention and consumer rights. Past-Chair of the Canadian Bar Association National Elder Law Section. Senior Fellow of the Canadian Centre for Elder Law and immediate past National Director and staff lawyer at the BC Law Institute from 2004-2011. Adjunct and sessional professor at a number of universities including the University of Toronto and the University of Victoria. Awarded the Stetson University Distinguished Fellowship in Elder Law 2012.

**Nidhi Tandon** Founder and Director of Networked Intelligence for Development. International development consultant specializing on micro enterprises and sustainable business. Former President of Ontario Nature and Vice-Chair of Oxfam Canada.

\* Stepped down from the Council in 2013.

\*\* Joined the Council in 2013.

*Members of the Council participate in their individual capacities and do not represent organizations with which they may be affiliated.*

# Year in Review



# Banking Services

OBSI’s banking services complaints come from domestic and foreign-owned banks, trust companies and credit unions. In the fluid world of financial services, we see investment product issues arise in banking files as “wealth management” spills across the former silos of banking, investment and insurance.

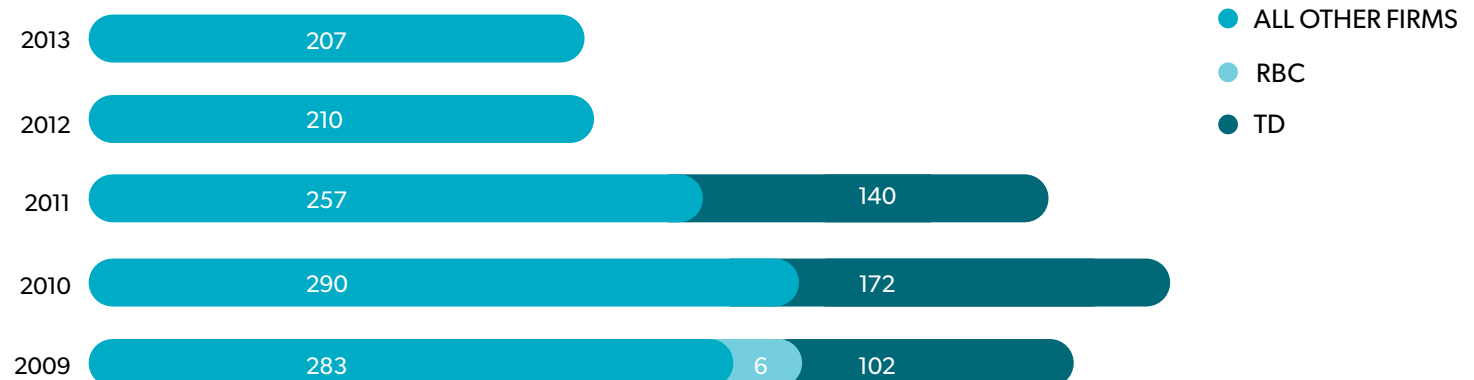
## Brigitte Boutin, Deputy Ombudsman for Banking Services:

The number of complaints looked into by the banking investigative team in 2013 stayed fairly constant compared to the previous year, which had seen a large drop largely due to TD Bank’s withdrawal from OBSI for banking complaints in 2011. OBSI opened 207 investigations compared to 210 last year. This stability in the work load allowed the banking team to focus on implementing some other significant changes that took place this year.

The dispute resolution services we offer to clients of our participating firms will eventually be subject to the new *Complaints (Banks, Authorized Foreign*

*Banks and External Complaints Bodies) Regulations* that came into force on September 2, 2013. Under these new regulations, OBSI was required to submit an application for approval as an External Complaints Body (ECB) to the Financial Consumer Agency of Canada (FCAC), which we did on the first day it was possible to do so. The FCAC is responsible for overseeing the application process and making recommendations for approval to the Minister of Finance. An ECB will be subject to the regulatory requirements upon approval by the Minister of Finance.

Among these requirements, any approved ECBs will need to determine within 30 days if all or part





of a complaint submitted to its attention is part of its mandate or not. When the complaint falls within its mandate, the ECB will have to “make a final written recommendation to the parties, no later than 120 days after which the information that it requires to deal with the complaint” is complete.

OBSI’s track record in resolving banking complaints is excellent. Our average time to resolve complaints is better than the regulatory standard, and better than our competitors. However, there have always been outlier cases that take longer to close.

In order to meet these new requirements, we have taken some measures to further improve the efficiency of our investigations. These include changes to our internal processes as well as working with our participating banks to ensure their inputs into our process also allow for timely resolution of complaints brought to OBSI.

As Canada’s leading banking dispute-resolution organization, OBSI chose to meet the regulatory requirements earlier this year, even before approval as an ECB (which timing remains unknown). By doing so, not only have we been able to outperform the previous OBSI Board target, which was to close 80% of our files within 180 days, we have managed to close almost all our files (92%) in less than 120 days. The average number of days we take to close

straightforward investigations went from 41 days to 31 days while the average for all investigations went from 93.5 days to 67.5 days in 2013.

As in years past, most complaints were related to the following products and issues: mortgage loans (prepayment penalties), credit and debit cards (fraud and chargebacks), personal loans and lines of credit (collection and credit ratings), Guaranteed Investment Certificates (missing or lost funds on GICs dating back to years ago), and personal bank accounts (closure of accounts, accounts made joint with right of survivorship, and service).

Some observations can be made from these complaints.

There is always room for improvement on the disclosure and clarity of the terms and conditions relating to a product offered by a firm to its client. But there is also an obligation for clients to read the information that firms provide to them and ask questions if the information is not clear.

Finally, with the Canadian population aging, some new challenges arise. Recent surveys show that more and more seniors are victims of financial abuse. It is in everyone's interests to protect them against abuses, but it is not always easy to find the right balance between a senior's

request, their best interest, and the privacy obligation a firm owes to its elderly customer. Where do banks draw the line when a senior who appears to have full mental capacity comes into a branch accompanied by a family member, and asks to make all the accounts he or she owns joint with this family member, with a right of survivorship as well? What if the senior refuses to answer questions from this firm or to meet individually with a representative? Is it for privacy reasons or because the senior is being abused by this family member? How do we know the true intent of the elderly client at the time? These are the sorts of issues that banks, and then OBSI, grapple with frequently.

There is no doubt that the work we do in investigating the complaints we receive bring very interesting challenges. We always approach the issues raised in a complaint using principles of fairness to all the parties in the circumstances.

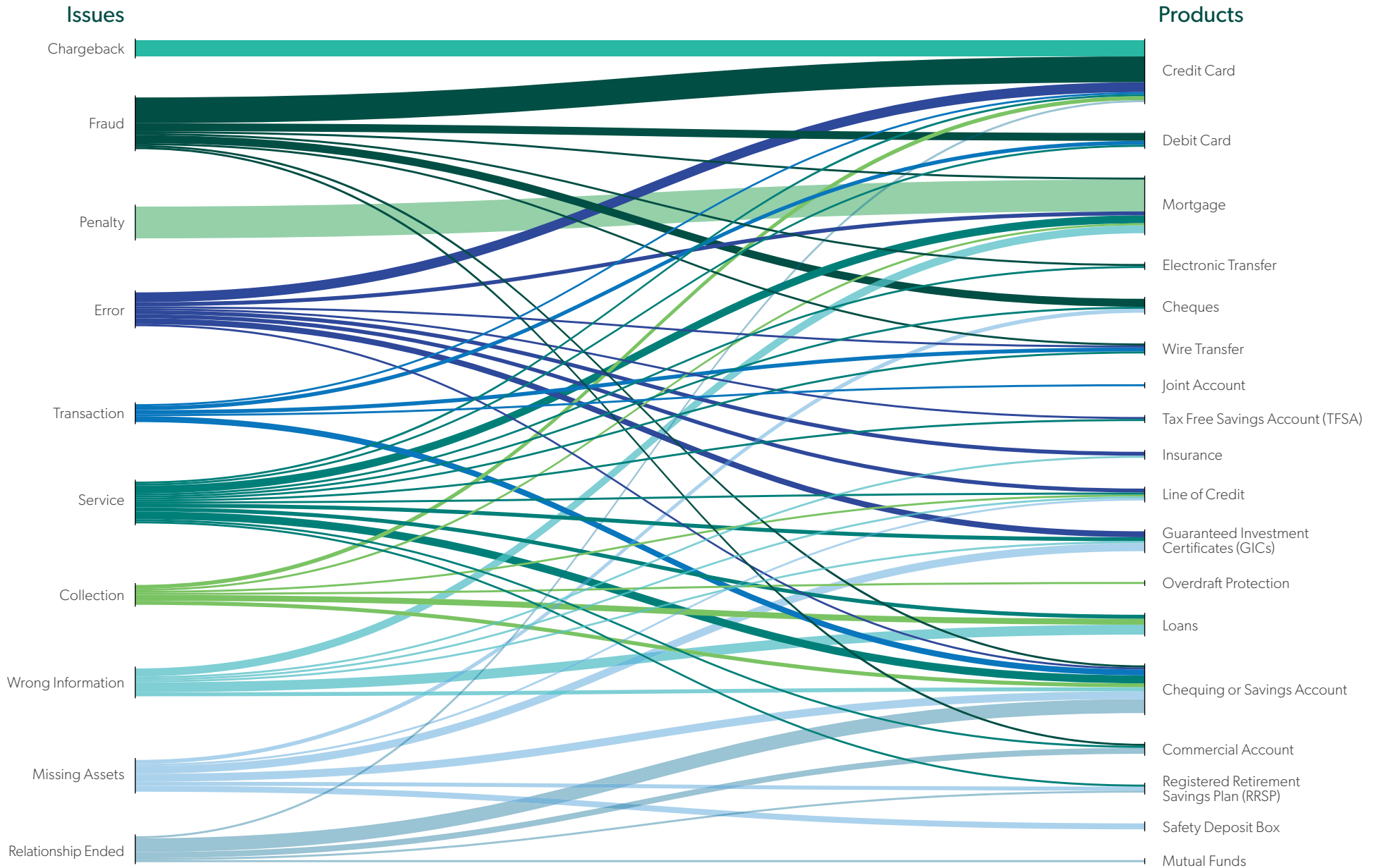
The credibility of OBSI and its success are based on the trust, respect and cooperation of all the parties involved. In this regard, we would like to thank the participating firms and complainants who have trusted us and helped us over this last year to enhance our credibility and our efficiency in what we achieved.



We would also like to welcome the new participating firms that joined OBSI this year. We are very gratified that they chose us as their independent dispute resolution provider for their banking services complaints.

We are proud of our achievements this year and are committed to further improving the quality of our services to our stakeholders in the future.

## Visualization of Banking Complaint Issue and Product Linkages (Top 10 Issues)



# Investments

In 2013, OBSI’s participating firms involved in investments mostly belong to two major groups. Investment dealers are regulated by the Investment Industry Regulatory Organization of Canada (IIROC). Client accounts may include stocks, bonds, mutual funds and other investment products. Mutual fund dealers are regulated by the Mutual Fund Dealers Association of Canada (MFDA) and are limited to dealing in mutual funds and, if properly registered, exempt products sold without a prospectus. We also review complaints from customers of participating scholarship plan dealers, portfolio managers and exempt market dealers.

**Robert Paddick, Deputy Ombudsman for Investments:**

We look back on 2013 with mixed feelings. On the one hand, the Investment Team had a very successful and productive year. We closed 22% more cases in 2013 than in the previous year, and because our case intake volumes remained steady we were able to reduce our overall inventory. The case closures included all but one of the “stuck cases”, the last of which was closed in late December of 2013. Investors received compensation where the facts of the case warranted it in 37% of our cases, with firms agreeing to pay investors over \$4.6 million.





On the other hand, it was very disappointing that we had to make public ten cases because some firms refused to compensate investors as we recommended. Multiple investors were out a combined \$1.37 million in these cases because the firms refused to provide compensation for their errors.

While we strive to reach resolutions in all of our cases, when we had to publish investigation reports last year it gave us the opportunity to show the details of our work and how we reach conclusions in actual cases. Often the work we do is a bit of a “black box” to people on the outside, and a silver lining to the compensation refusals was they gave us the opportunity to demonstrate the high degree of competence and skills that we bring to our investigations. We were gratified that the feedback on the content from objective observers was very positive.

In 2013, suitability of investments continued to be the number one issue. On the product front, we saw an increase in issues involving unrated high-yielding debt securities. In this low interest rate environment, investors are looking for higher returning income investments. While some higher-yielding debt securities may provide that to

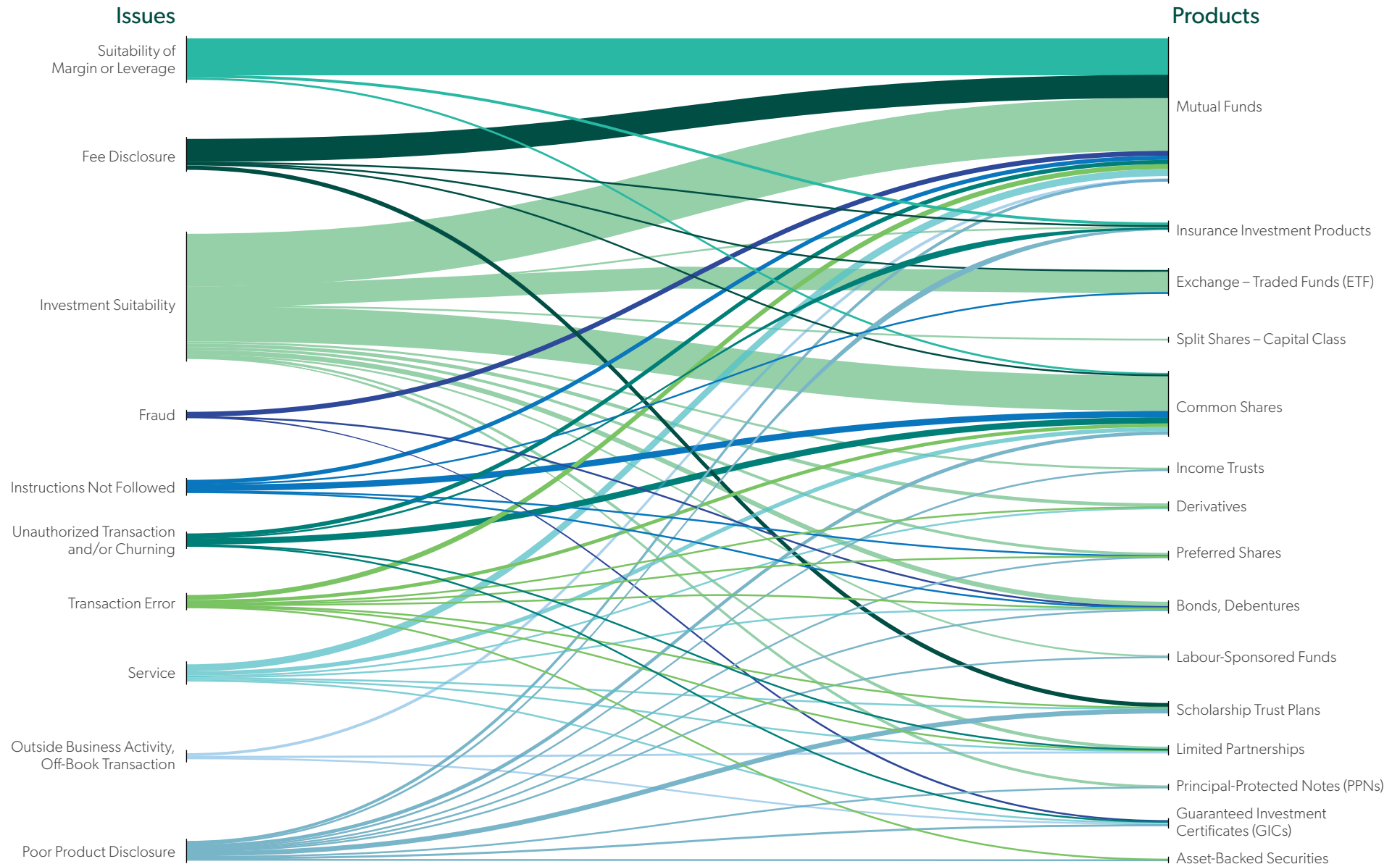
investors, there is a higher degree of risk involved. It is important that advisors know the products they recommend and ensure they are suitable for their clients.

In 2014, we look forward to working with our participating firms and investors to resolve cases in a more timely manner. As the external dispute resolution service, we are taking the lead and will play a central role in realizing this goal. But we can’t do it alone – we need the cooperation and engagement of firms and investors alike. We are confident that if all parties engage in trying to resolve cases quicker and more efficiently that together we can make it happen.

Finally, we welcome the many new participating firms that will be joining us as a result the amendments to National Instrument 31-103. The investment team is always available to act as a resource for these firms as they transition to becoming members in OBSI, and we look forward to working with them and their clients to help resolve their disputes.



## Visualization of Investment Complaint Issue and Product Linkages (Top 10 Issues)



[Click here for the interactive version of this visualization on our website.](#)

# Operations

OBSI is committed to being an efficient and cost-effective Ombudservice for the Canadian financial industry. As part of this commitment, OBSI engages in continuous process improvement and prudent expenditure management.

**Sasha Angus, Senior Deputy Ombudsman and Chief Operating Officer:**

The creation of the role of Chief Operating Officer last year was affirmation by the Board that as OBSI pursues its mandate of providing fair dispute resolution it must be mindful of the efficiency of its processes and how this translates into costs passed on to participating financial sector firms. Over the course of 2013 the senior management team has been busy translating this commitment into results that will be measurable and meaningful to our member firms.

Using external efficiency experts, we undertook a process review on the investment side of our mandate that focused initially on our case intake procedures. This work led to a faster pace for assembling and assessing files at the beginning of the year.

Our process review turned next to other cases at the end of our resolution process, in what we call Phase 3: the firm/client decision-making phase. We have since resolved many of those cases, either by achieving a



fair settlement or, failing that, publicly announcing the firms' refusals to compensate.

Following these two exercises, we began another end-to-end process review that is ongoing. It will result in recommendations on how we should conduct and then report our investigations for both banking and investment complaints. We expect to receive the final report from this review by spring 2014.

During the year we reviewed our standards of report writing with a view to improving them, to assist in settling more quickly those cases in which we determined there should be compensation paid.

As a result of these changes, during 2013, we closed 22% more cases on the investment side than the previous year, a performance we hope to repeat this year.

For our 2014 year, we have a renewed commitment to completing 80% of new investment complaint investigations within 180 days (100% of banking complaint investigations – which tend to be simpler to investigate – must be completed within 120 days,

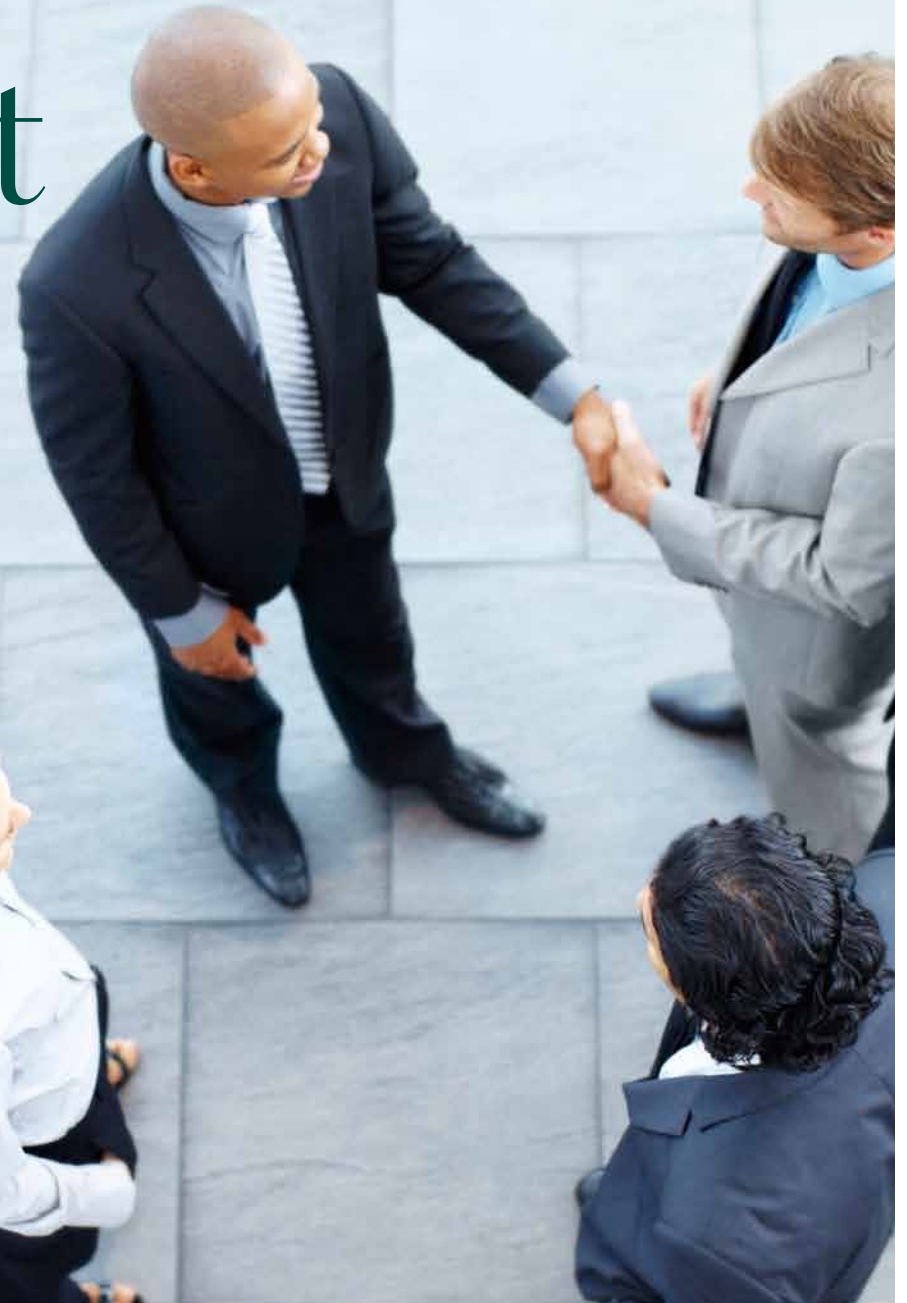
according to federal Bank Act regulations). Any new complaints that come in the door after November 1, 2013 will meet this standard.

The coming year will see significant change for OBSI as we take on new members as a result of the amendments to NI 31-103, but stakeholders should be confident that OBSI has the processes and capacity in place to take on the expanded membership and the caseload that comes with it. All members, both new and old, should also know that our membership fees are set based on the principle that no sector or registrant category should subsidize another; each category pays only for the costs associated with resolving their category's complaints, as well as their proportional share of management and administration costs.



**Commitment:  
80% of new investment  
complaint investigations  
completed within 180 days**

# Complainant Feedback



As a neutral third-party that stands between individual aggrieved clients and their financial services firms, it has been OBSI's experience that satisfaction with our service is fairly predictable. If our investigation finds that the firm acted reasonably and that the client is not owed compensation, the firm is happy with us and the client is not. Similarly, if we recommend in favour of compensation, the client is happy with us and the firm is not.

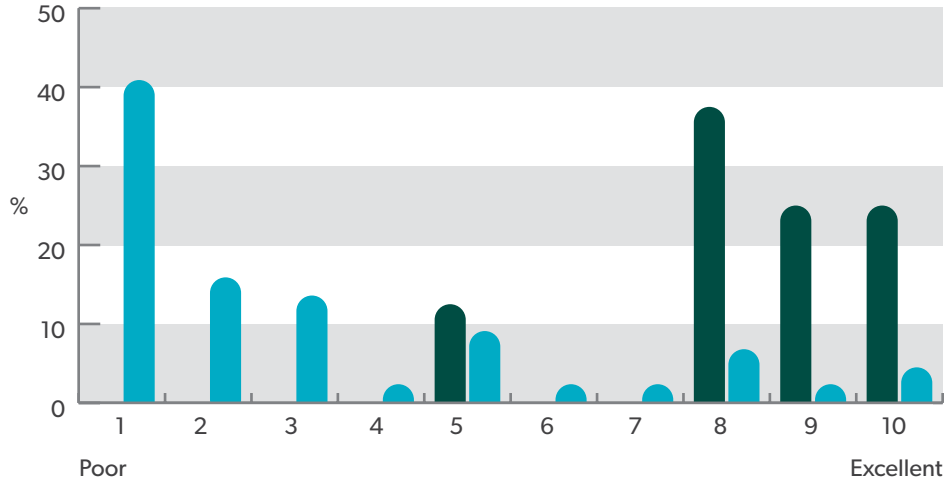
As we have previously observed, the data shows a strong correlation between the outcome of clients' complaints and their level of satisfaction with OBSI's service. What is heartening to us is that many people who did not receive compensation in the end still expressed positive opinions about our service.

While it's impossible for us to please everyone all of the time, obtaining data on service perceptions helps us identify areas for improvement or special attention.

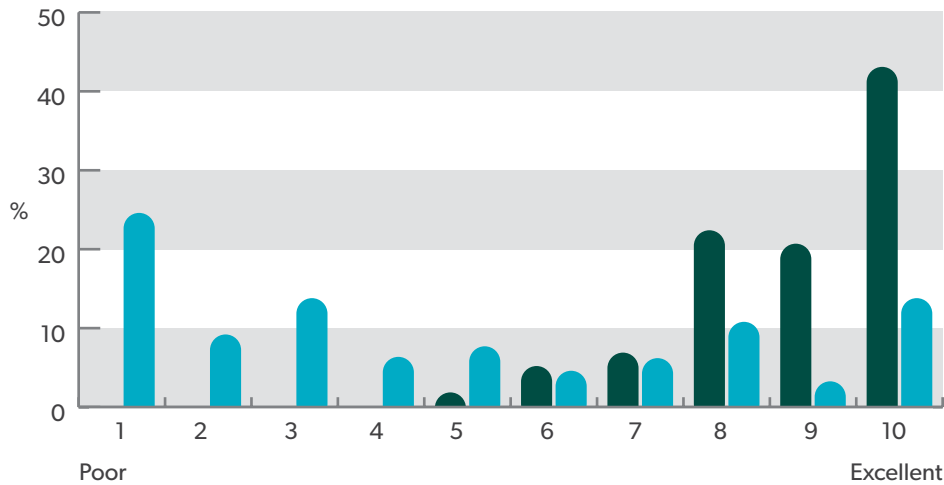
● COMPENSATION ● NO COMPENSATION

**QUALITY OF SERVICE**

**Banking Complaints**

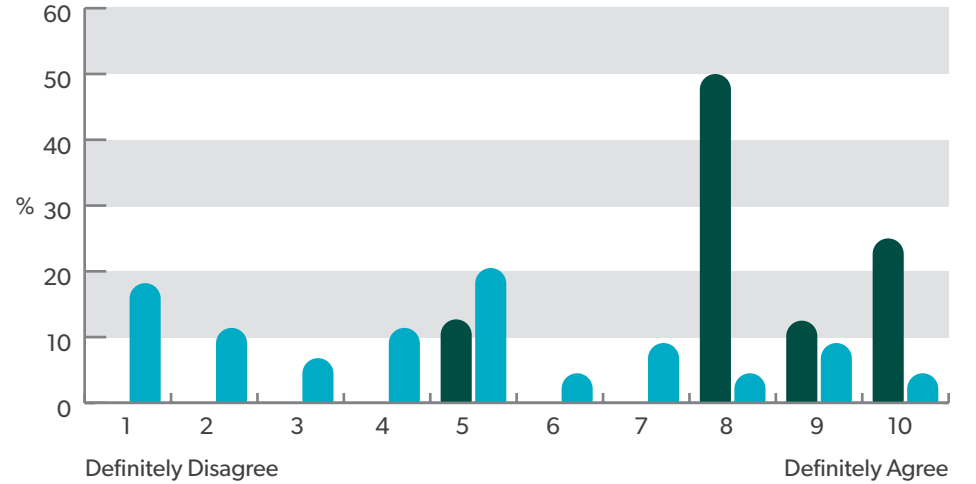


**Investment Complaints**

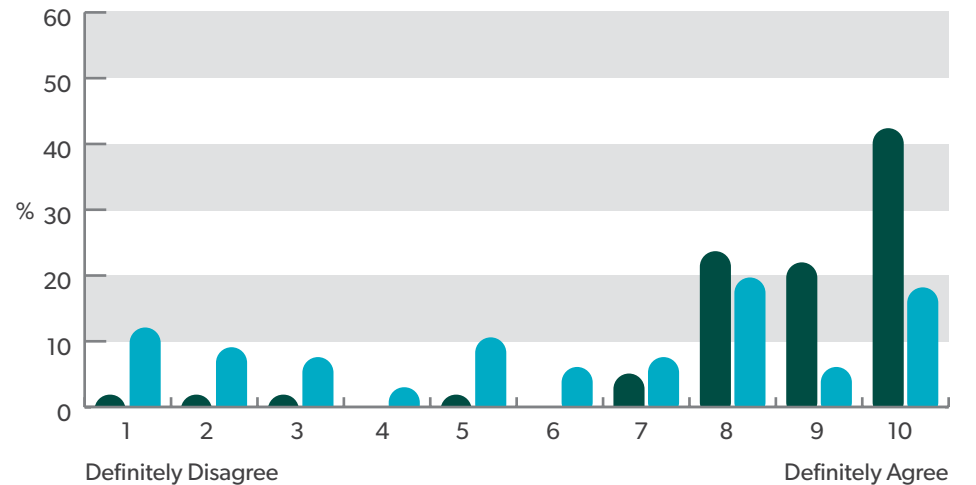


**PROCESS WAS EASY TO UNDERSTAND AND FOLLOW**

**Banking Complaints**



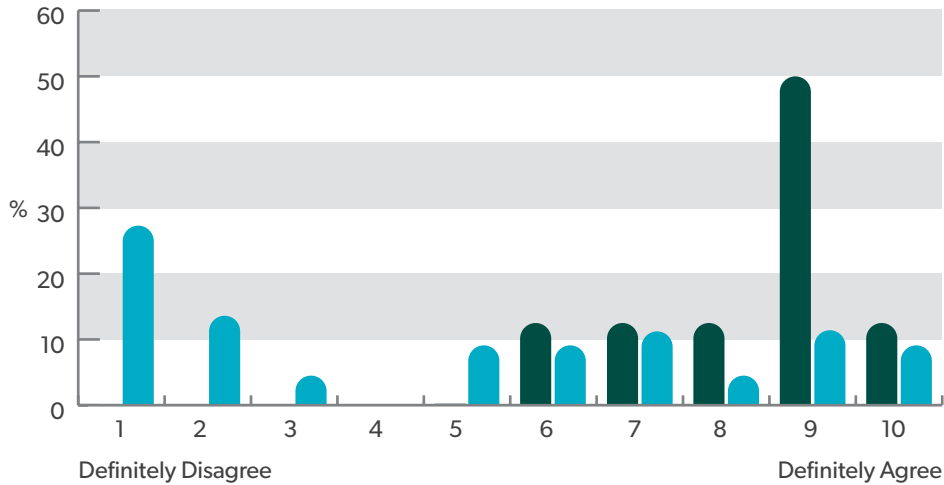
**Investment Complaints**



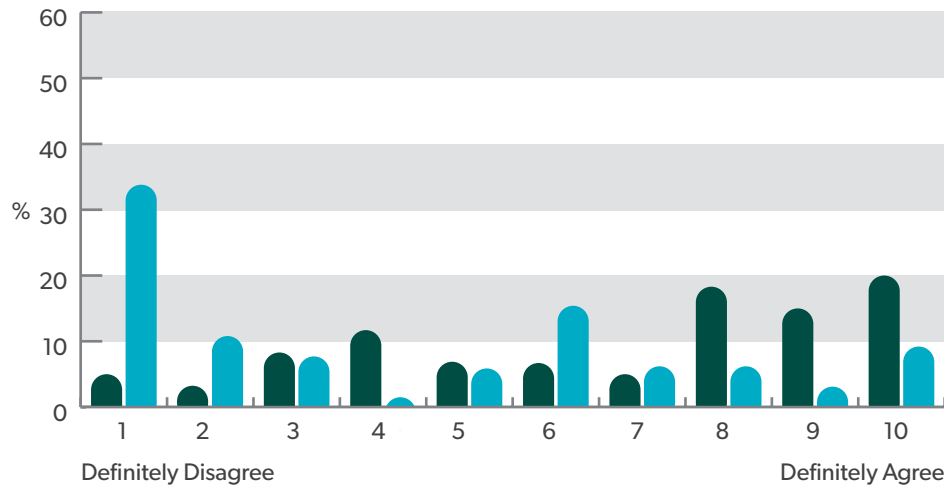
● COMPENSATION ● NO COMPENSATION

**INVESTIGATION OCCURRED WITHIN A REASONABLE LENGTH OF TIME**

**Banking Complaints**

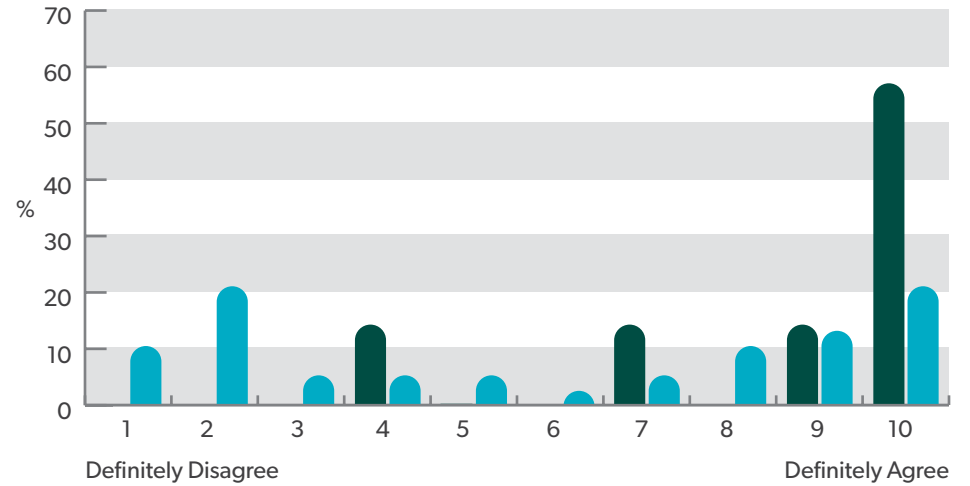


**Investment Complaints**

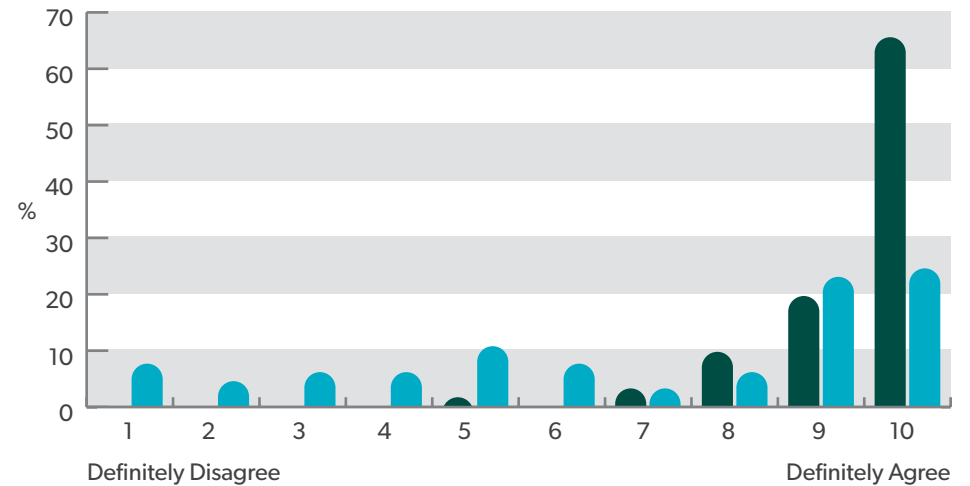


**INVESTIGATOR WAS COURTEOUS AND PROFESSIONAL**

**Banking Complaints**



**Investment Complaints**



# Case Studies

The following case studies are provided as examples and are not meant to set precedents. OBSI assesses each complaint on its own merits and circumstances.





## Banking Case Study #1

# Power of Attorney

Health issues made movement challenging for Mr. A so he gave his eldest son his debit card and personal identification number (PIN) to make purchases on his behalf. Mr. A completed a joint power of attorney (POA) naming his two sons as his attorneys. Soon after, Mr. A's personal bank account was converted into a joint account with his eldest son.

A few months later, Mr. A had an accident which resulted in a lengthy hospitalization. During this time Mr. A's daughter reviewed her dad's finances. She discovered that her older brother had withdrawn \$5,900 for his own use without Mr. A's knowledge. She suspected her brother had used the POA to convert Mr. A's account to a joint account with himself.

Ms. S complained to her father's bank, arguing that it should have refused to act on her brother's instructions to make the account joint given that the joint POA required the younger brother to also authorize the change. She advised that her older brother often asked Mr. A to sign papers, which Mr. A did not understand in his deteriorating health and mental state.

The bank reviewed the matter and concluded that the POA had not been used. The personal bank account had been converted into a joint account upon completion of a "conversion application form" which had Mr. A's authorizing signature. It reminded Mr. A and his daughter that both accountholders have equal, independent access to the funds in a joint account. Furthermore, it observed that Mr. A had previously allowed account access by providing his debit card and PIN to his eldest son. It did not offer compensation.

Unsatisfied with this response, Mr. A's daughter complained to OBSI on his behalf.

## Complaint not upheld

We investigated to determine whether the bank properly followed its established procedures in converting Mr. A's personal account to a joint account. We confirmed that the bank relied on the signed conversion application form, not the POA. In fact, the bank was not even in possession of the POA document. There were no indications that the application form was manipulated. We also observed that the bank was not notified that Mr. A was not competent to manage his affairs and therefore would not have questioned Mr. A's properly completed form. While we sympathized with Mr. A's situation we did not have any basis to recommend compensation.

**Banking Case Study #2**

# Foreign Currency Accounts

Mr. E held both Canadian and American-dollar denominated accounts at his bank. In March 2, he received a \$26,000 USD wire transfer from a relative living abroad, made through Mr. E's bank's foreign subsidiary.

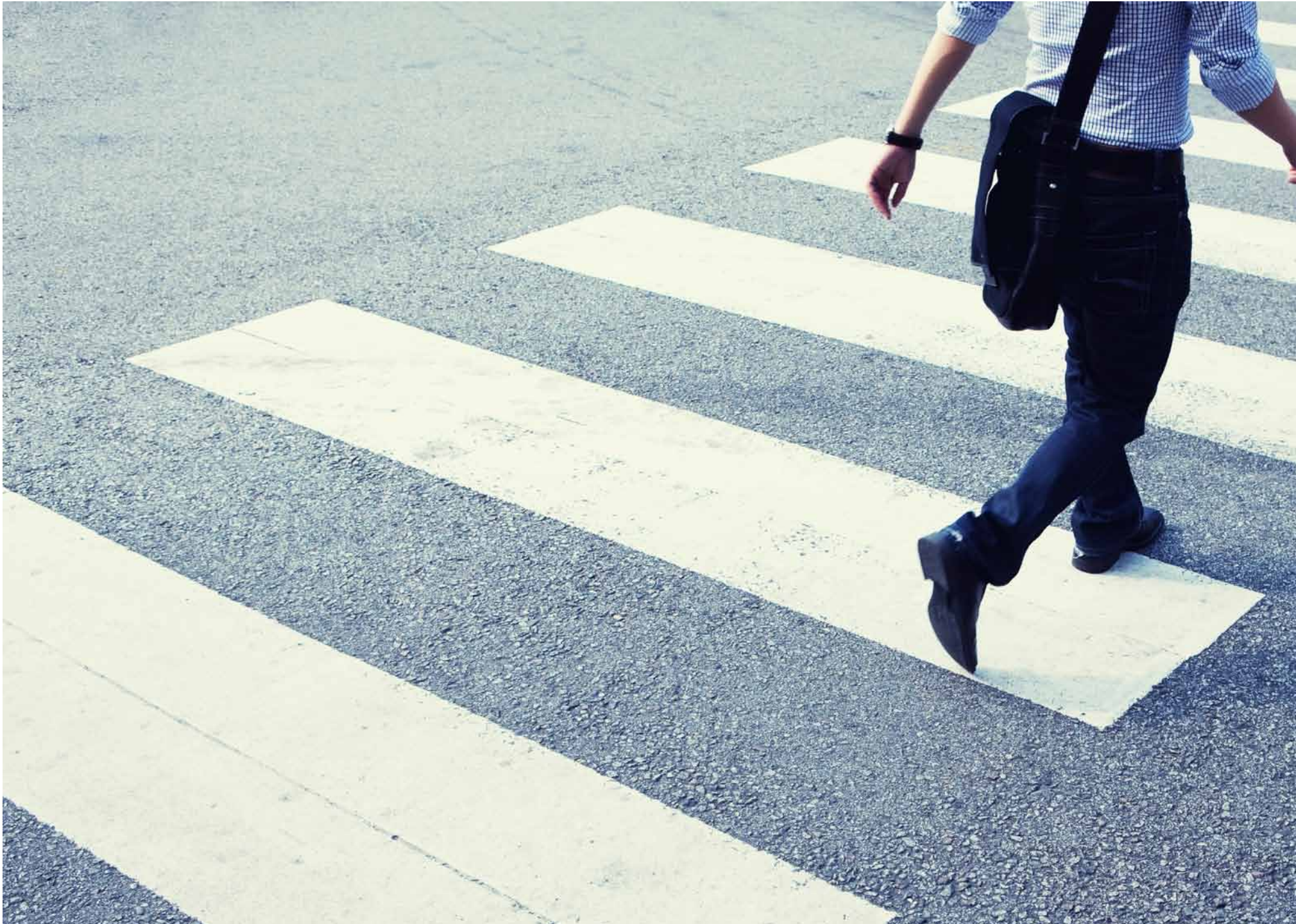
When Mr. E checked his account balances online, he saw that the bank placed the transferred funds in his Canadian-dollar denominated account instead of his American-dollar denominated account. He calculated the loss on the currency exchange to be \$700 and complained to his bank. Mr. E felt that the bank should have been more proactive and recognized that he held two accounts in two different currencies. It would have made financial sense for the funds to be deposited into the account of the same currency, and if the bank had phoned him to confirm the transfer, Mr. E would have instructed that the funds be placed in his American-dollar denominated account.

The bank declined compensation. As a member of the Society for Worldwide Interbank Financial Telecommunications ("SWIFT"), the bank told Mr. E that it followed SWIFT procedures for processing wire transfers from foreign financial entities. It explained its obligation to follow the instructions as provided by the ordering customer, Mr. E's relative. She had provided the bank his Canadian-dollar denominated account, not his American-dollar denominated account.

Mr. E insisted the wire transfer was mishandled and came to OBSI.

**Complaint not upheld**

We investigated the matter and agreed with the bank's position. In reviewing SWIFT protocols, we confirmed that it had properly carried out the wire transfer. It is common for Canadian banks to receive wire transfers in foreign currencies and we did not feel it would be reasonable to expect banks to call customers for confirmation every time a wire transfer is received. We also confirmed that Mr. E's relative provided instructions to transfer the money to the Canadian-dollar dominated account. OBSI did not recommend that Mr. E be compensated.



**Banking Case Study #3**

# Cheque Endorsements

Mr. C owned an automotive parts store where he employed an administrative assistant with responsibility for payroll, bank statement reconciliations, and other accounting functions. Over a period of four years, she embezzled \$80,000 by writing company cheques to herself or fictitious third parties, depositing them into her personal account using her bank's automated bank machine (ABM).

She hid the transactions from management by manipulating the company's financial records. An independent audit by the bank eventually discovered the fraud and the employee pled guilty to criminal charges.

Mr. C asked his bank (the same one used by his employee) to refund the money that she had stolen. While he admitted that he should have been more vigilant in monitoring his company's finances Mr. C believed the bank shared some responsibility as it did not verify the endorsements. He argued that had the bank attempted to verify the endorsements, the fraud would have been discovered sooner and losses minimized.

The bank agreed that Mr. C was a victim of fraud but declined to refund the stolen amounts, citing the account agreement with Mr. C's business. The provisions held Mr. C responsible for the action of his employees and required him to have reasonable controls to monitor, detect, and prevent losses due to fraud. The bank nonetheless offered the Mr. C \$5,000 as a goodwill gesture, which he declined. He then brought his complaint to OBSI.

## Complaint upheld

We reviewed the correspondences between Mr. C and the bank as well as relevant laws, court decisions, bank procedures, industry best practices, and other documents including the account agreement. All parties agreed that Mr. C failed in his obligations as outlined in the account agreement. At issue was whether the bank shared responsibility in the losses when it failed to confirm the presence or validity of the cheques endorsements.

Small business account agreements frequently contain provisions that hold the business owner responsible for the actions of their employees, including fraudulent acts. Such provisions must be clear and define each party's responsibilities. Courts have generally interpreted such agreements strictly and, in situations of ambiguity, favour the accountholder.

In reviewing the account agreement, we found provisions relating to forged or authorized signatures but none on forged or unauthorized endorsements. Furthermore, the bank's internal procedures noted it must "verify the legitimacy of the endorsement" when "negotiating a third party cheque." The procedures also instructed employees not to accept a cheque if its endorsement could not be verified.

While we understand the bank's business decision to allow third party cheques via ABM deposit for convenience, in our view the bank's responsibility to confirm or verify endorsements remained in place. If the bank intended to limit its liability for missing or forged endorsements it should have been clearly included in its account agreement.

As a result, we concluded that Mr. C and the bank shared responsibility for the losses. The client was responsible for the actions of his employees, monitoring account activities, and taking responsible fraud prevention steps. For its part, the bank had an obligation to verify the validity of the endorsements on cheques written to third parties irrespective. We apportioned responsibility equally and the bank agreed to compensate Mr. C \$40,000, representing half of the loss.

## Investment Case Study #1

# Off-book Transactions

OBSI received multiple complaints over a short period about an investment firm and Mr. V, an investment advisor and branch manager. The complainants had no connection to one another other than having Mr. V as their advisor.

Mr. V had worked at the firm for many years, and his clients regarded him as knowledgeable and trustworthy given his dual advisor and branch manager roles. He had recommended a fund to the complainants that he promised would provide guaranteed 10% interest. The clients wrote cheques, for varying amounts, and gave them to Mr. V. In return they received a “promissory note” detailing an interest payment schedule.

At first, the complainants received regular payments as expected. Then, within a year, the interest payments suddenly stopped. After many failed attempts to contact Mr. V the complainants eventually complained to the firm’s head office and demanded their money be returned.

Unbeknownst to the complainants, the fund Mr. V sold them was not approved by the firm. The firm explained that Mr. V had made these transactions “off-book”, meaning he had sold securities outside the firm and in this case without the firm’s knowledge. The firm sympathized with the complainants but did not offer compensation, as the losses resulted from securities not actually purchased through it. Unsatisfied, the complainants brought their complaint to OBSI.

## Complaint upheld

During our investigation we interviewed the complainants and found them to be generally unsophisticated investors with limited investment experience who relied heavily, if not entirely, on Mr. V for their investment decisions. The fact that he was also a branch manager provided extra assurance to many of the complainants. Some complainants had previously purchased other securities through Mr. V and his firm without having any problems, and believed this promissory note was no different.

Our investigation revealed that Mr. V had a checkered history as an investment advisor. He was reprimanded by his firm ten years prior to the complaints after being caught trying to execute transactions on a client's account without head office approval. He once received a one-year "compliance-related suspension" from the firm and multiple branch audits found repeated deficiencies in his practices.

The firm's regulators strongly recommended that it closely supervise Mr. V. The firm's Chief Compliance Officer had even told the regulators of his intention to find a new branch manager but Mr. V remained in this role for at least two more years. We inquired with the firm what, if any, actions were taken to properly monitor Mr. V but were not provided with a satisfactory response.

We concluded that the firm failed to adequately supervise Mr. V. There were many red flags that ought to have prompted the firm to take action that could have prevented the complainant's losses.

Firms are vicariously liable for the actions of their investment advisors. The fact that Mr. V sold securities not approved by the firm does not automatically excuse its responsibility. Fairness requires us to also look at the issue from the perspective of the complainants.

From the complainants' perspectives, their advisor worked for the firm and they purchased the promissory note through the firm. Mr. V met with the complainants at his office and used firm resources to carry out the transactions. The purchase of the off-book securities was similar to other previous firm-approved transactions. The complainants had every reason to believe they were dealing with Mr. V in his capacity as an agent of the firm.

Based on OBSI's conclusions, the firm agreed to compensate the complainants amounts totaling almost half a million dollars.

## Investment Case Study #2

# Suitability

Mrs. P had a Registered Retirement Savings Plan (RRSP) and several other accounts with her investment firm, but was a relatively unsophisticated investor. Her husband, on the other hand, did have a good understanding of investment concepts and strategy, and regularly traded stocks in a self-directed account.

Mrs. P deferred to her husband for investment decisions and gave him trading authority over her individual accounts. When her advisor, Mr. H, recommended stocks or investment strategies, Mrs. P would often ask her husband for his opinion before making a decision.

Over time, Mrs. P began to doubt her advisor's judgment. Eventually, she complained to her firm that she lost \$20,000 as a result of her advisor's inappropriate investment advice. Mrs. P's risk tolerance, as outlined in her know-your-client (KYC) documentation, was being ignored. There were also multiple instances of leveraged exchange-traded funds (ETFs) being held for months instead of being sold the same day as they were purchased, as is typical for this type of security.

The investment firm declined compensation. It explained that Mrs. P had been given suitable advice, consistent with the KYC document. The firm netted the gains and losses between the various leveraged ETFs and concluded Mrs. P did not suffer an overall loss. In fact, the firm found she gained \$22,000. Finally, the firm said that by consulting her knowledgeable husband and then consenting to the investments, Mrs. P was agreeing to the recommendations and was thus responsible for any gains or losses that resulted. Unsatisfied with this response, Mrs. P came to OBSI.



## Complaint not upheld

Our investigation focused on whether Mrs. P's investments were suitable as well as whether the leveraged ETF strategy was appropriate. Our analysis indicated that the KYC documentation reasonably reflected both Mrs. P's and the couple's investment knowledge and objectives. We also found that Mrs. P was willing to accept some high-risk exposure and, with the help of her husband, understood the relationship between risk and returns.

Nevertheless, we agreed with Mrs. P that there was a misalignment between the KYC documentation and the leveraged ETF strategy. Her allocation of high-risk securities was much higher than considered appropriate based on her risk tolerance parameters. In addition, after interviewing the couple, we found that although Mr. P had good investment knowledge he likely did not have a sufficient level of understanding of how leveraged ETFs differed from other ETFs. He was therefore not in a position to evaluate their level of risk.

In determining what financial harm Mrs. P suffered, if any, we compared the performance of the unsuitable leveraged ETFs against a notional portfolio of suitable securities (S&P/TSX Composite Total Return Index). Our calculations also considered the timing of purchases, sells, deposits, withdrawals, fees, and other applicable transaction costs. We concluded that, although the leveraged ETFs were unsuitable, Mrs. P did not suffer financial harm: the unsuitable investments resulted in a net gain of \$60,000. As a result, OBSI did not recommend the firm compensate Mrs. P.

### Investment Case Study #3

# Off-book Transactions

Mr. Y was approached about an investment opportunity by an advisor at his investment firm who was not the person he usually received advice from.

Following some initial discussions, the advisor visited Mr. Y at his home where he explained that the investment was in the form of a loan to a company. Mr. Y agreed make a \$50,000 investment and in return received a promissory note indicating he would receive 1% interest per month for one year. After this period, the principal would be returned.

Mr. Y became frustrated when his principal was not returned on the expected date. Instead, he received a letter notifying him that all interest payments and redemptions were suspended indefinitely while the company restructured. Mr. Y first tried unsuccessfully to contact the company for the return of his principal. He then complained to his investment firm, holding it responsible for his losses since the investment was recommended by one of its advisors.

The firm declined compensation. The firm and Mr. Y's longstanding advisor had no knowledge of this investment made outside of his portfolio at the firm. It explained that it was not responsible for the losses since Mr. Y had made these investment arrangements independently. It noted that Mr. Y kept the investment secret from his investment advisor and only divulged details after trying unsuccessfully to recover the funds. Unsatisfied with the firm's response, Mr. Y brought his complaint to OBSI.

### Complaint not upheld

Our investigation centered on the circumstances surrounding Mr. Y's investment purchase. The promissory note and accompanying documentation clearly described the investment as a loan agreement between Mr. Z and the principals of the company receiving the loan. The investment dealer was not mentioned.

We also reviewed email correspondence between Mr. Y and the advisor who arranged the loan. The emails strongly suggested the advisor communicated that the investment was made outside of the firm, and that Mr. Y understood that this was an unrelated investment. While firms are generally responsible and liable for the actions of their employees and agents, in this case we found that the client knowingly purchased an investment separate from the investment dealer and only complained to the firm when his first attempt to recover the funds from the company failed. We did not recommend compensation.



# Complainant Profiles

At OBSI we believe in the importance of knowing more about financial consumers and investors who bring their complaints to us. This helps us ensure that we provide a service that properly meets their needs and expectations, and is in the public interest.



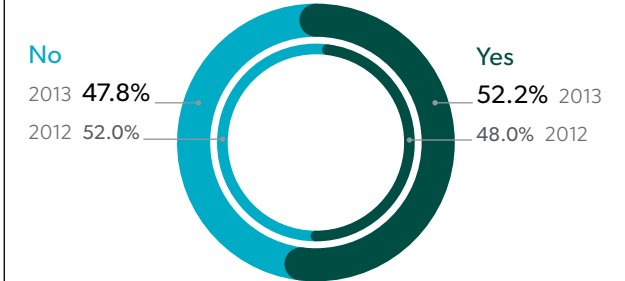
Throughout our 2013 fiscal year, we conducted detailed research into the profile of individuals who come to our office. With the support of a professional research firm, we asked about such things as age, ethnicity, education, occupation and income.

\* Some percentages may not add up to 100% due to rounding.

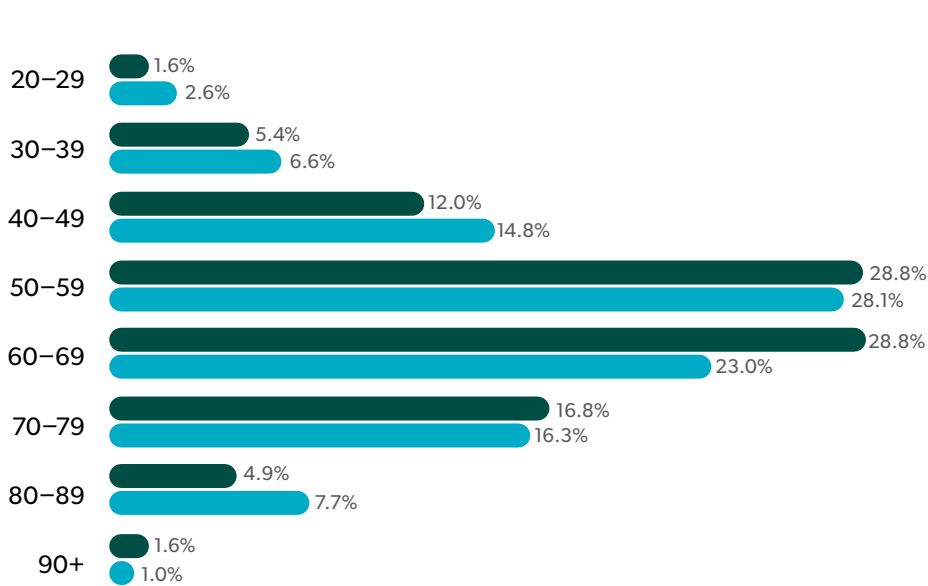
### Gender



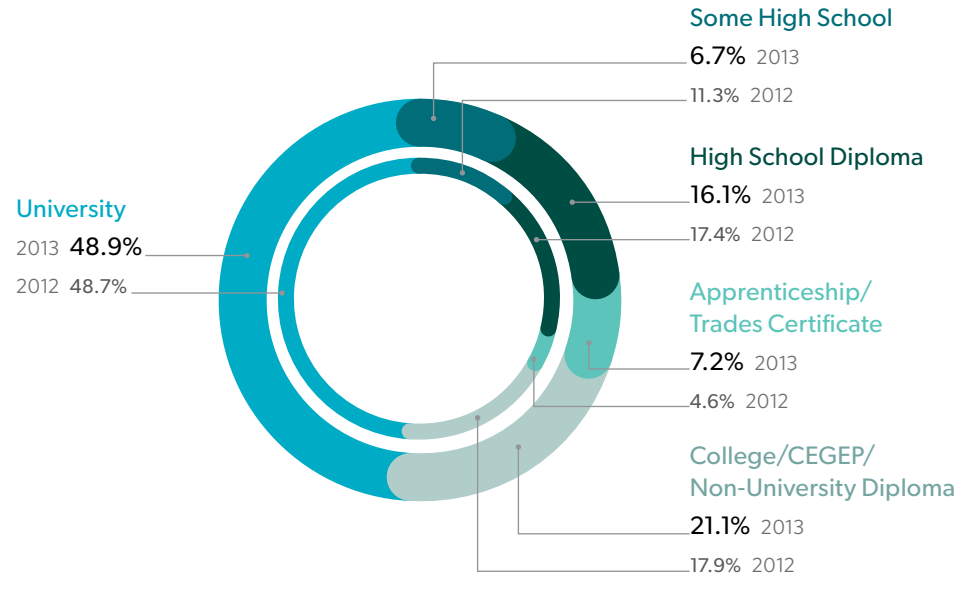
### Senior



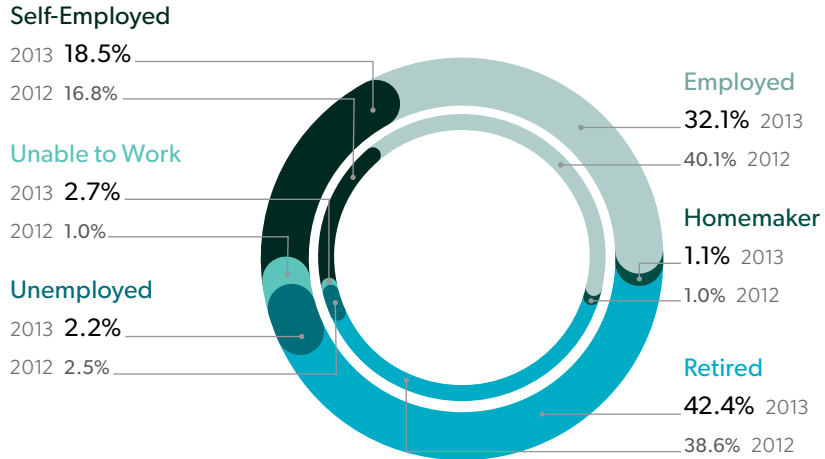
### Age of Clients



### Education



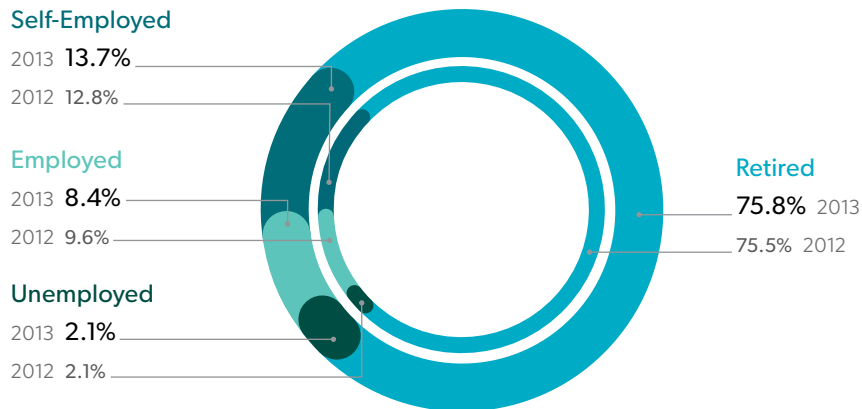
### Job Status



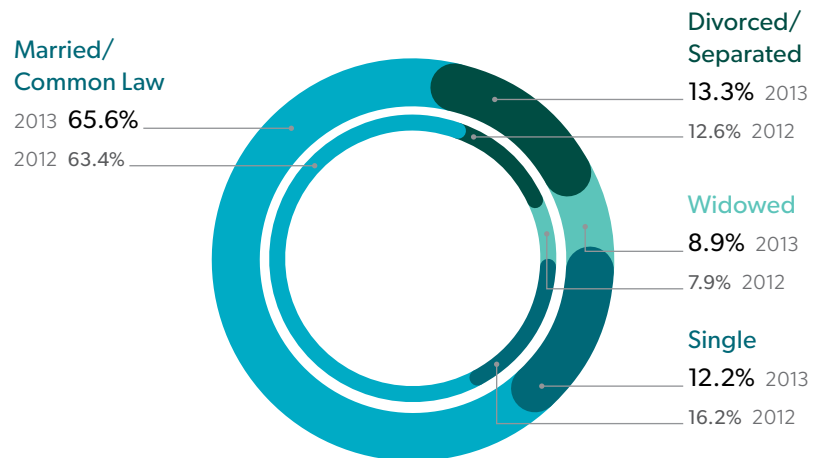
### Number of Children



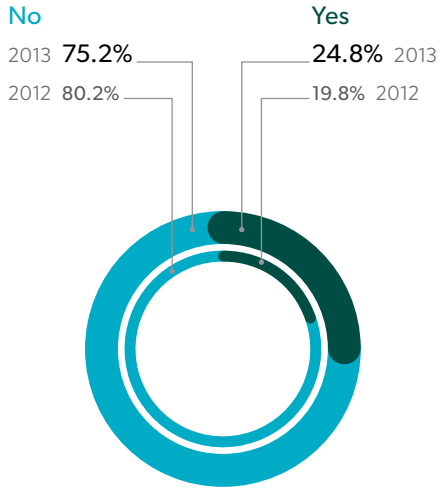
### Job Status (Seniors Only)



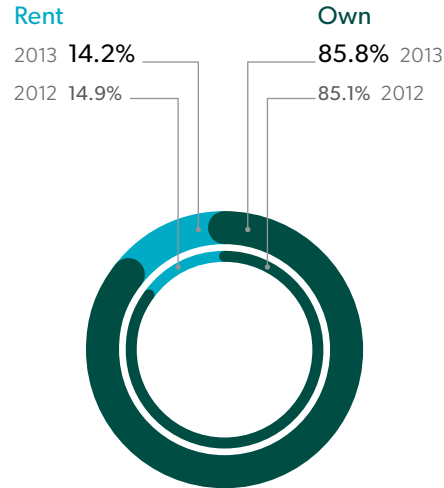
### Marital Status



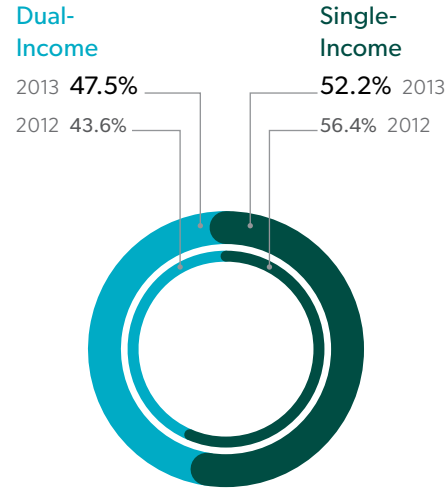
### Children Under 18



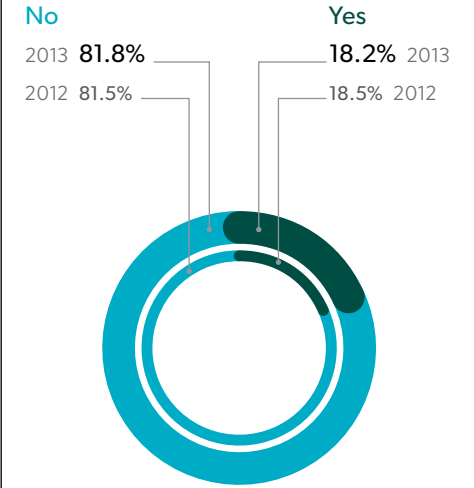
### Home Ownership



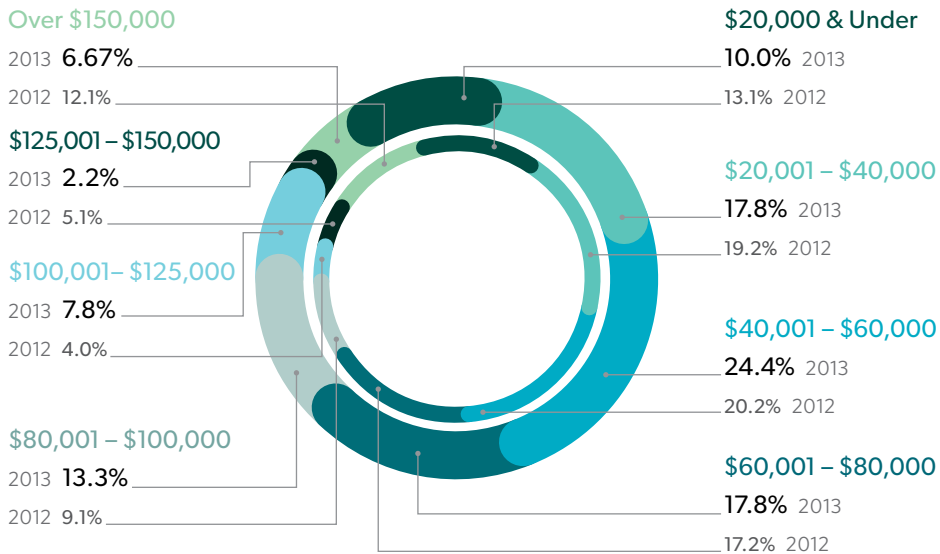
### Family Income – Type



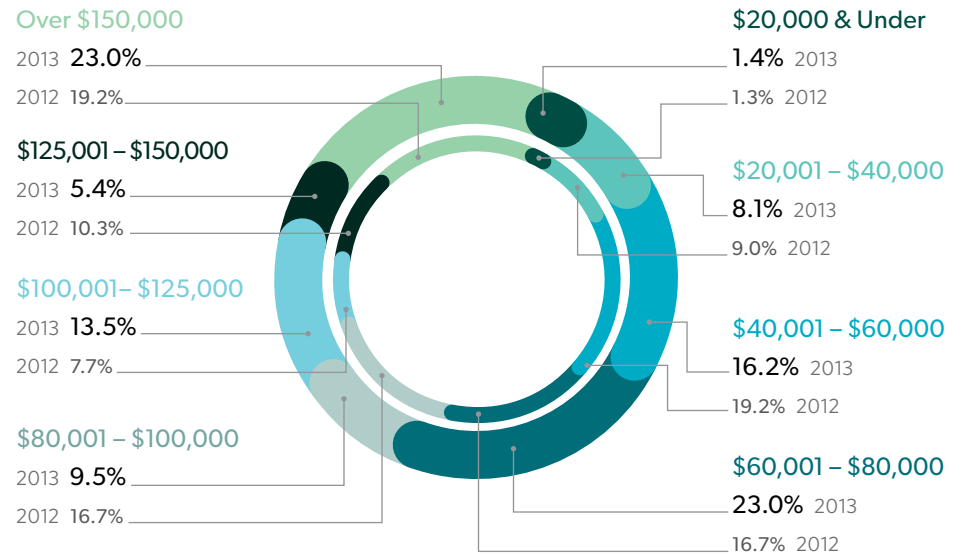
### Visible Minority



### Family Income (Single-Earner Household)



### Family Income (Dual-Earner Household)



# Corporate Governance





## Our governance structure ensures the Ombudsman and OBSI's staff are independent and impartial, and have the necessary resources to carry out their jobs.

An independent and non-profit organization, OBSI is overseen by a Board of Directors. A majority are Community Directors who have not been part of the financial industry or government for at least two years prior to their appointment. A minority of the directors are appointed from groups of nominees provided by industry bodies.

Beyond the composition of the Board, further important safeguards of OBSI's independence are in place. Votes on key independence questions are not only decided by a majority of votes cast by all Directors present at the meeting but also require a majority of the Community Directors present.

These key independence questions include such matters as the hiring and evaluation of the Ombudsman, the budget process, and changes to the Terms of Reference.

The search for board members balances diversity, geography and the need for a variety of backgrounds and skills. Collectively, the directors have experience in governance, business, law, accounting, consumer and regulatory affairs, economics, community organizations, dispute resolution and public service.

Performance reviews of the Board and Board Chair are conducted every two years.

Strict rules prohibit the Board or individual directors from becoming involved with individual complaints. The final decision concerning complaints rests with the Ombudsman. There is no appeal to the Board, nor can the Board influence the decisions of the Ombudsman.

### Director Compensation

Community directors receive a \$10,000 honorarium per year, with the Chair of the Board receiving an additional \$4,000 annually and committee chairs receiving an additional \$2,000. Directors also receive \$1,800 for every meeting they attend (\$750 if attending by teleconference). Any travel or preparation time is included in the above amounts and is not compensated further.

Industry-nominated directors do not receive any compensation from OBSI.

# Board of Directors



## **Fernand Bélisle, Chair**

Mr. Bélisle brings to OBSI a wealth of experience navigating complex multi-stakeholder, highly-regulated environments. He was a trustee of the Canadian Association of Broadcasters (CAB) during their restructuring and is a consultant to several broadcast companies. Mr. Bélisle previously served as Vice Chair, Broadcasting, at the Canadian Radio-Television and Telecommunications Commission (CRTC), which followed a series of senior executive posts at the organization, including Secretary General. He is a current Director of Corus Entertainment, RNC Media, and Chair of Xittel Télécommunications. Mr. Bélisle has also served on a number of other boards and is active in the community.

## **Adrian Burns, LL.D**

Ms. Burns is the Vice Chair of the National Arts Centre Board of Trustees, President of Western Ltd., a real estate corporation, and is a member of the Executive Committee of the Board of Directors of Shaw Communications. Ms. Burns is a past full-time commissioner of the CRTC as well as a former director of the Copyright Board of Canada. Ms. Burns also serves on the boards of several business and community organizations, including the Carthy Foundation and the RCMP Heritage Centre. She has received the Queen's Diamond Jubilee Medal, the Saskatchewan Distinguished Service Award, the United Way Community Builder Award, and has won several CanPro Gold Awards.



## **Jim Emmerton, LL.B**

Since 2007 Mr. Emmerton has been the Executive Director of the British Columbia Law Institute (BCLI) and Canadian Centre for Elder Law. He has served in various legal and senior executive capacities with John Labatt and Methanex Corporation and possesses a broad spectrum of knowledge in the fields of law, finance and corporate development. Mr. Emmerton was formerly a member of OBSI's Consumer and Investor Advisory Council. In 2011, he was the winner of the Western Canada ZSA/National Post Lifetime General Counsel award.



### Angela Ferrante

Ms. Ferrante is a retired executive who served in senior executive roles with the Ontario Energy Board, BMO Financial Group, Ontario Power Generation and the C.D. Howe Institute. She has over thirty years of board governance experience, including as a Board Member of the Social Sciences and Humanities Research Council, the Canadian Journalism Foundation, the Ontario Institute for Studies in Education, VIA Rail, and the Canadian Foundation for Governance Research. Ms. Ferrante currently serves as Chair of the Toronto Central Local Health Integration Network and is on the board of the Independent Electricity System Operator.



### Craig Hayman (IIROC nominee)

Mr. Hayman, CFA, is a partner at Edward Jones and is responsible for Recruiting, Training and Leading Canadian Branch Teams. He has been with the company for 15 years in a number of senior roles, and was appointed to his current role in 2012.

### Lynne Kilpatrick (CBA nominee)

Ms. Kilpatrick joined CIBC in 2013 as Senior Vice President Channel Strategy and Integration. Prior to that, she spent 16 years at BMO Financial Group with six years as Senior Vice President Personal banking in Canada with accountability for segment and customer strategies, marketing, customer experience, sales force productivity and data insights and analytics. She began her career as a business journalist working for the Wall Street Journal and the Financial Times of Canada.



### Ian Lightstone

Mr. Lightstone is currently a director of MJI Global and ArtsandTV.com company. He is a past member of the Board of Directors and Past-Chair of Bridgepoint Health Foundation, member of the Board of Directors of Gore Mutual Insurance Company and a Fellow of both the Market Research Intelligence Association and the Dobson Centre for Entrepreneurial Studies. Previously, he was the founding Principal of Thompson Lightstone Company, one of Canada's largest market research firms.



**Louise Martel**

Mme Martel, FCPA, FCA, is director of the accounting studies department and director of the International Watch Centre for Financial Information at the École des Hautes Études commerciales de Montréal. She also acts as a coach in accounting/finance for senior corporate executives and participates in international projects. She is a member of the board and executive committee, and president of the audit committee, of Télé-Québec.

**Kevin E. Regan (MFDA nominee)**

Mr. Regan is Executive Vice-President and Chief Financial Officer of IGM Financial Inc. He was appointed to the role in May 2012 following just over two decades with the company in a variety of senior roles. Mr. Regan is currently on the Board of Directors of the Mutual Fund Dealers Association (MFDA) Investor Protection Corporation and the Second Vice-President on the Council of the Institute of Chartered Accountants of Manitoba.



**Janis Riven, LL.B, BCL, MBA**

Ms. Riven is a governance and compliance consultant with extensive board experience, and an adjunct professor at the John Molson School of Business at Concordia University where she teaches Corporate Governance. Prior to 2003 she worked as an executive in the financial services industry in a variety of legal and compliance roles.

# Director Attendance

PRESENT   
  ABSENT   
  NOT APPLICABLE

There were four regularly-scheduled meetings of the Board in 2013.

Board of Directors				
	12/04/2012	02/12/2013	05/28/2013	09/10/2013
Fernand Bélisle, Chair	•	•	•	•
Adrian Burns	•	•	•	•
Jim Emmerton	•	•	•	•
Angela Ferrante	•	•	•	•
Craig Hayman	•	•	✘	•
Lynne Kilpatrick	•	•	•	•
Ian Lightstone	•	•	•	•
Louise Martel	•	•	•	•
Kevin Regan	•	•	•	•
Janis Riven	•	•	•	•

## Board Committees

The OBSI Board of Directors has three standing committees: Governance and Human Resources; Finance and Audit; and, Standards.

### Governance and Human Resources

The Governance and Human Resources Committee assists the Board on matters of corporate governance and relations with OBSI’s stakeholders, including government. The committee also fulfills an oversight role relating to human resources policies and compensation matters.

Governance and Human Resources Committee				
	12/04/2012	02/12/2013	05/28/2013	09/10/2013
Fernand Bélisle, Chair	•	•	•	•
Adrian Burns	•	•	•	•
Angela Ferrante	•	•	•	•
Ian Lightstone	•	•	•	•
Kevin Regan	•	•	•	•
Janis Riven	•	•	•	•

PRESENT   
  ABSENT   
  NOT APPLICABLE

### Finance and Audit Committee

The Audit Committee provides oversight of financial reporting and control activities for the Board. The Committee also oversees OBSI's defined contribution pension plan, receives the report of the external auditor, and ensures OBSI's compliance with its legal, regulatory, and contractual obligations.

Finance and Audit Committee				
	12/04/2012	02/12/2013	05/28/2013	09/10/2013
Louise Martel, Chair	•	•	•	•
Jim Emmerton	•	•	•	•
Craig Hayman	•	•	<b>x</b>	•

### Standards Committee

The Standards Committee is responsible for overseeing OBSI's quality and performance standards and making recommendations to the Board of Directors regarding the organization's performance against regulatory requirements and expectations.

Given the importance of operational issues and the changes to OBSI's Terms of Reference considered in 2013, it was decided that the full Board of Directors would participate in each of those discussions. As a result, the Board's Standards Committee did not meet separately during 2013.



# Financial Highlights





## Through a constant focus on controlling expenditures, OBSI's staff and Board were able to deliver a 2014 budget that is essentially flat.

In determining our membership fees, we build on the principle that no sector or registrant category should subsidize another. Banks do not subsidize the investment sector and vice versa. Within the investment sector, IIROC member firms, MFDA member firms, and non-IIROC or MFDA registrants, each pay for the costs associated with resolving their group's complaints only. We engage our auditor to verify compliance with this "no cross-subsidization" policy.

Senior management, administration and overhead costs are divided proportionally across the sectors according to their share of complaints.

As the amendments by the Canadian Securities Administrators to NI 31-103 were only approved in December, the approved budget does not include new expenditures associated with taking on all exempt market dealers, portfolio managers, and scholarship plan dealers as members, which is being funded through a separate fees to be paid by these new participating firms.

Despite continual challenges with complaint volume, we are pleased to have been able to

deliver a third consecutive budget that shows either a decrease in, or flat, spending.

In 2012, our major increases in expenditures were related to external process consultants, whom we retained to identify potential efficiencies in our approach. These particular consultants were recommended to OBSI by industry stakeholders several years ago, and we brought them back to take a deeper dive into our processes.

Through tight management of staff costs in 2013 we were able to fund the cost of these consultants without raising our budget, despite having to deal with complaint levels that were equivalent to those we dealt with in the previous year. We were also assisted by the conclusion of the governance project arising from our external review of 2011, and which had led to a revamping of the structure and membership of the board of directors. The significant costs associated with governance reform in 2012 were able to be reallocated to other internal efforts in 2013. In addition, our operating surplus from 2013 will be invested in efforts to tackle the inventory of older complaint files.

In the coming year, we will be looking to leverage our consultants' work into quicker closing times, more effective decision-making processes, and quicker turn-around times in our interactions with banks and investment firms. We have consulted with some investment firms and banks on the changes we anticipate making and have put the industry on notice that we need to become quicker for them, for the complainants, and for ourselves.

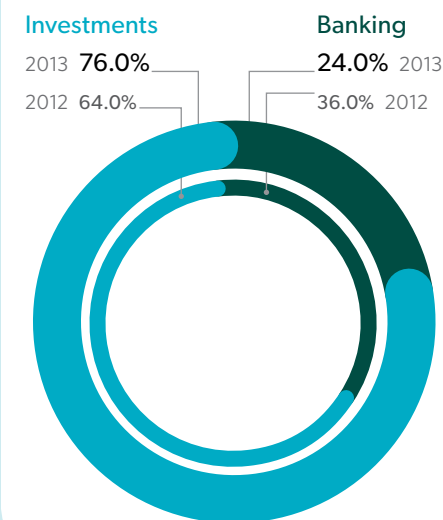
OBSI's financial statements were audited by Crowe Soberman LLP.

FISCAL YEAR ENDED OCTOBER 31      **2014**      **2013**      **2012**      **2011**      **2010**  
**BUDGETED**      **AUDITED**      **AUDITED**      **AUDITED**      **AUDITED**

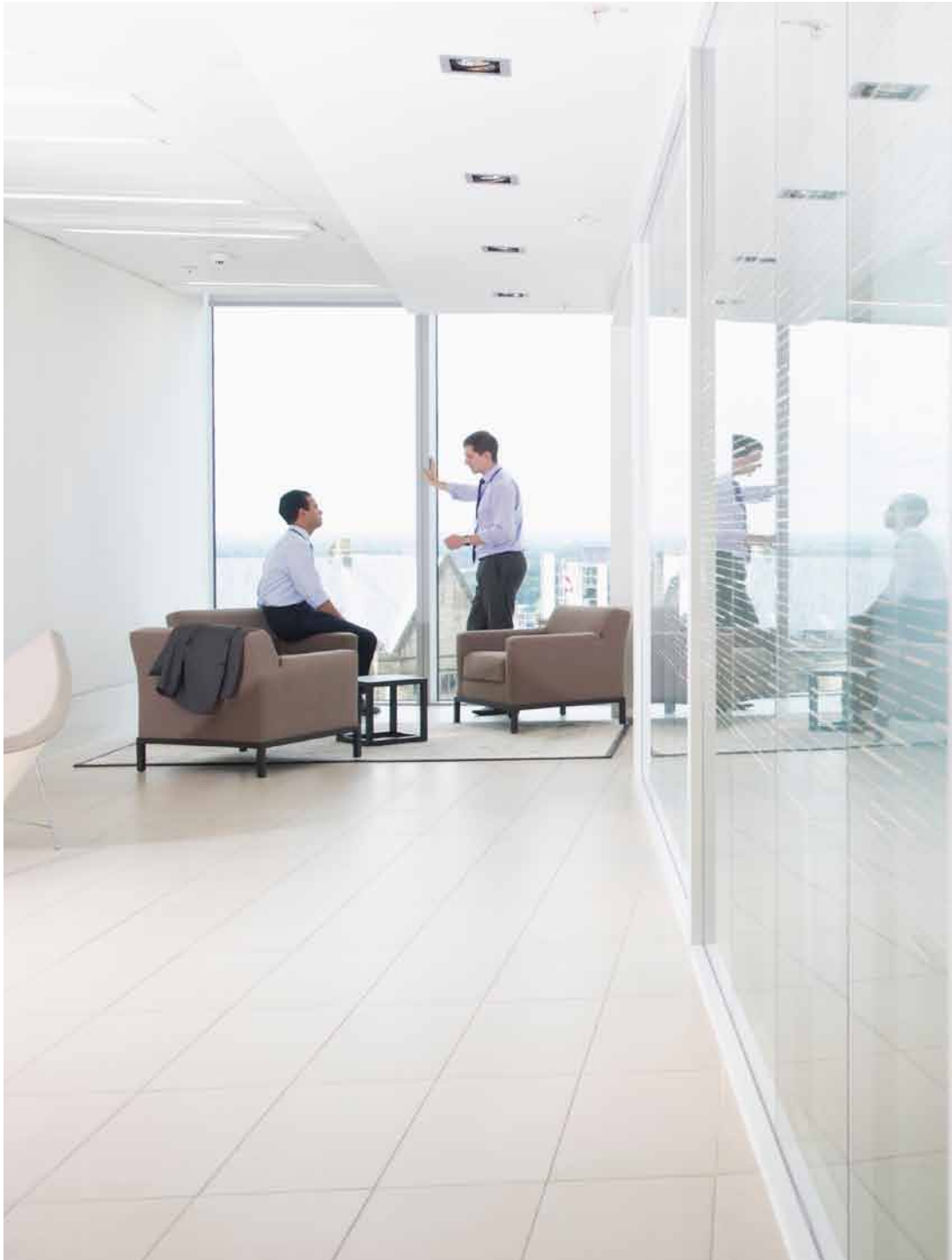
REVENUE					
Participating Firm Fees	\$ 7,963,872	\$ 7,965,906	\$ 7,800,221	\$ 8,599,862	\$ 7,668,402
Other					\$ -
Interest Income		\$ 23,481	\$ 11,797	\$ 12,787	\$ 6,015
	<b>\$ 7,963,872</b>	<b>\$ 7,989,387</b>	<b>\$ 7,812,018</b>	<b>\$ 8,612,649</b>	<b>\$ 7,674,417</b>

EXPENSES					
Personnel	\$ 6,222,072	\$ 5,446,554	\$ 5,792,229	\$ 5,830,726	\$ 5,357,004
Directors' Fees and Expenses	\$ 460,550	\$ 298,875	\$ 844,271	\$ 384,734	\$ 306,806
Rent and Operating Costs	\$ 350,000	\$ 298,202	\$ 313,372	\$ 305,169	\$ 301,364
Marketing and Membership	\$ 198,400	\$ 102,137	\$ 136,940	\$ 171,414	\$ 111,448
Supplies, Services and Travel	\$ 138,000	\$ 106,644	\$ 119,828	\$ 128,442	\$ 126,422
Telephone	\$ 82,000	\$ 74,588	\$ 85,004	\$ 88,555	\$ 108,413
Information Technology and Support	\$ 142,000	\$ 142,613	\$ 117,727	\$ 122,829	\$ 112,197
Corporate Administrative	\$ 119,000	\$ 111,381	\$ 115,806	\$ 88,065	\$ 83,361
Legal Fees	\$ 167,250	\$ 126,872	\$ 155,059	\$ 175,486	\$ 137,155
Insurance	\$ 14,500	\$ 12,847	\$ 11,891	\$ 11,896	\$ 18,479
Audit Fees	\$ 31,000	\$ 46,387	\$ 26,725	\$ 25,425	\$ 22,600
Consultant Fees	\$ 34,100	\$ 120,469	\$ 23,424	\$ 29,115	\$ 28,844
Other	\$ 5,000	\$ (3,105)*	\$ (10,273)*	\$ 33,005	\$ 50,569
Amortization	\$ 0	\$ 111,873	\$ 79,967	\$ 88,017	\$ 83,212
	\$ 7,963,872	\$ 6,996,337	\$ 7,811,970	\$ 7,482,878	\$ 6,847,874
One-Time Projects		\$ -	\$ -	\$ 932,312	\$ 487,872
<b>Total Expenses</b>	<b>\$ 7,963,872</b>	<b>\$ 6,996,337</b>	<b>\$ 7,811,970</b>	<b>\$ 8,415,190</b>	<b>\$ 7,335,746</b>
Excess of Revenue over Expenses		\$ 993,050	\$ 48	\$ 197,459	\$ 338,671

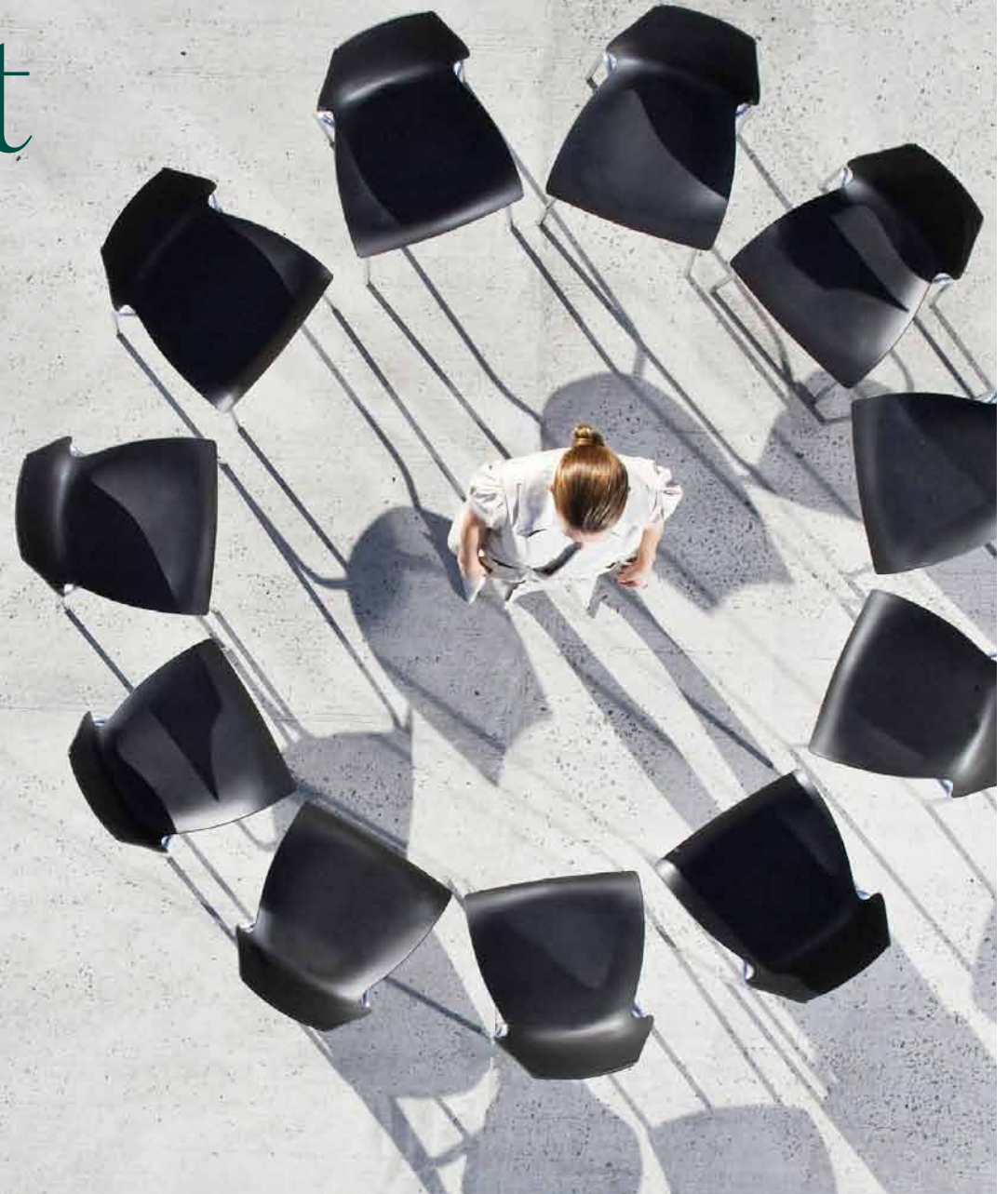
### Share of Expenses Associated With Each Sector



\* Accounts receivable (participating firm fees) previously written off that were collected



# Complaint Statistics



### Opened Case Files

Year	Total	Banking	Investment
2013	641	207	434
2012	656	210	446
2011	802	397	405
2010	1024	462	562
2009	990	391	599

### Compensation

	Total	Average	Median	Lowest	Highest	# of Case Files
Banking	\$206,597	\$8,982	\$1,000	\$100	\$135,000	23
Investments	\$4,677,415	\$26,728	\$10,000	\$100	\$275,000	175
<b>ALL</b>	<b>\$4,884,012</b>	<b>\$24,667</b>	<b>\$7,824</b>	<b>\$100</b>	<b>\$275,000</b>	<b>198</b>

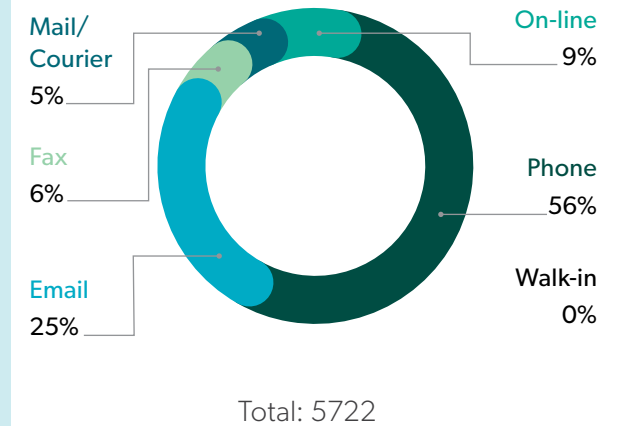
In 2013, 198 case files ended with monetary compensation to the client, worth a total of \$4,884,012. This represents 30% of all closed case files. 12% of banking complaints (23 of 194) and 37% of investment complaints (175 of 472) ended with monetary compensation. In addition, three complaints ended in some form of non-monetary restitution, such as corrected credit bureau rating. All three were related to banking complaints.

### Compensation Refusals

	Total	Average	Median	Lowest	Highest	# of Case Files
Investments	\$1,371,182	\$137,118	\$125,152	\$250	\$325,122	10

In 2013, 10 case files ended with firms refusing to compensate their clients, representing 1.5% of all closed files.

### Contacting OBSI



## Where do our complaints come from?

As a national service, OBSI gets complaints from coast to coast to coast. We also see files from customers of participating firms living abroad who have banking and investment relationships with firms in Canada.

This table compares the percentage of complaints received by OBSI by province or territory. The proportionately lower number in Quebec reflects the fact that the caisses populaires Desjardins do not participate in OBSI for banking services and the AMF provides redress mechanisms for investors that do not exist in other jurisdictions.

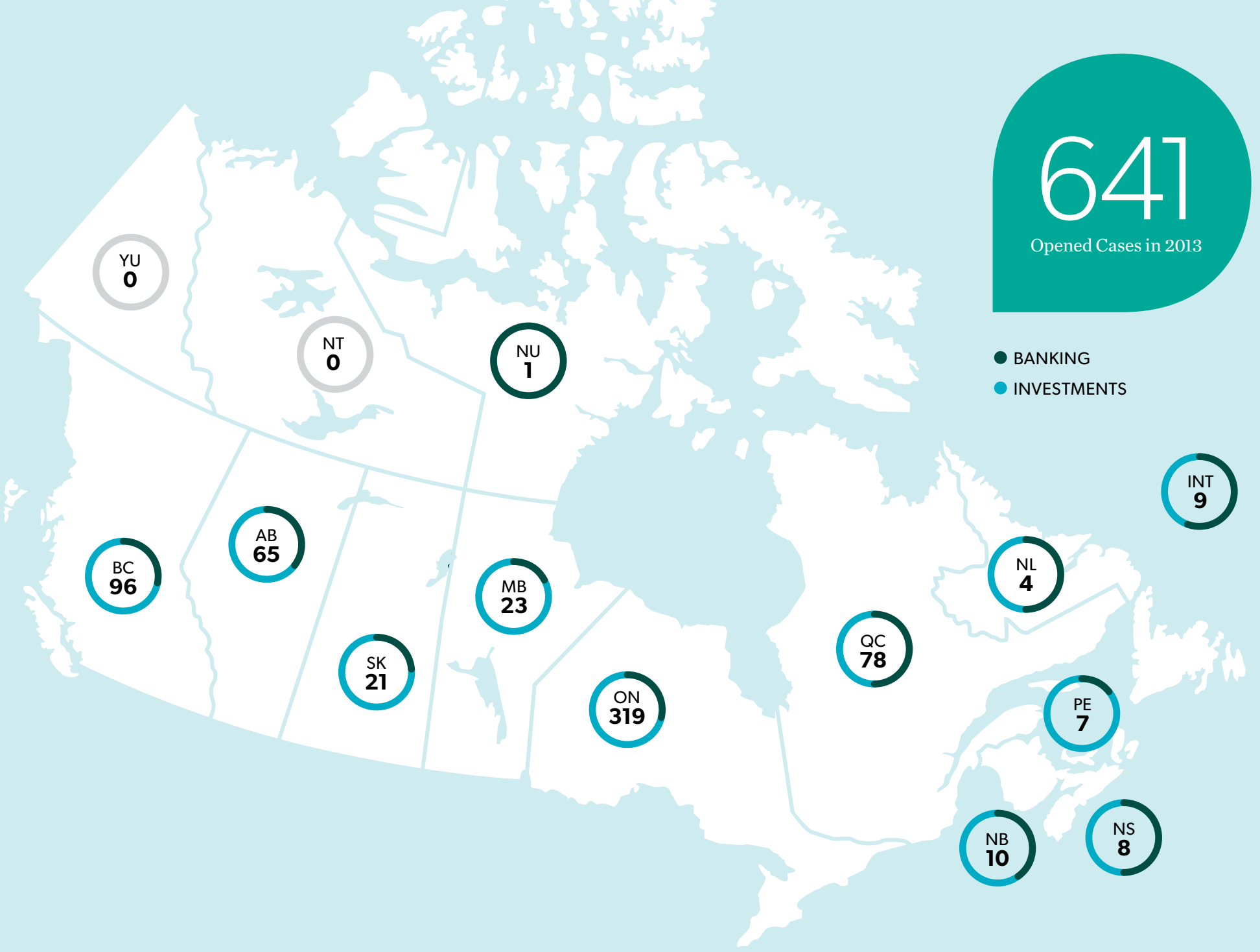
\* percentages do not add up to 100.0% due to rounding

Jurisdiction	Complaints
Ontario (ON)	49.8%
British Columbia (BC)	15.0%
Quebec (QC)	12.2%
Alberta (AB)	10.1%
Manitoba (MB)	3.6%
Saskatchewan (SK)	3.3%
New Brunswick (NB)	1.6%
International (INT)	1.4%
Nova Scotia (NS)	1.2%
Prince Edward Island (PE)	1.1%
Newfoundland and Labrador (NL)	0.6%
Nunavut (NU)	0.2%
Northwest Territories (NT)	0.0%
Yukon Territory (YK)	0.0%
<b>Total</b>	<b>100.1%*</b>

# 641

Opened Cases in 2013

- BANKING
- INVESTMENTS



### Time Frames – Banking

The federal government recently announced a new time standard for the resolution of banking complaints that differs from OBSI’s previous benchmark. Effective September 2013, OBSI makes a final written recommendation to the parties to a complaint no later than 120 days after the day on which it received the information that it required to deal with the complaint. While OBSI will not be subject to this standard until we receive Minister of Finance approval as an External Complaint Body, we are using this benchmark as the basis for reporting on banking complaint time frames.

	Average number of days to close case file
Straightforward investigations	31.0
All investigations	67.5

### Time Frames – Investments

OBSI reports on investment complaint time frames using different benchmarks than that required by the federal government for banking complaints. Information on the definitions used in OBSI’s reporting is found below and on the next page.

It is important to note that, compared to banking complaints, investment complaints are usually more complex and time-consuming to investigate. Because of this, comparisons should not be made between the two time measurements.

#### Straightforward investigations

	Phase 1: Intake and Assessment	Phase 2: OBSI Investigation	Phase 3: Firm/Client Decision-Making	Total Per File Average
Average time spent in phase (days)	151.1	55.9	27.0	213.7

#### All investigations

	Phase 1: Intake and Assessment	Phase 2: OBSI Investigation	Phase 3: Firm/Client Decision-Making	Total Per File Average
Average time spent in phase (days)	173.7	157.5	136.9	384.8

#### Phase 1: intake and assessment

- Time period measured from the opening of a complaint file through to assignment to an investigator.
- Begins with receipt of consent letter from the client. Includes the time spent sending the consent letter to the firm, waiting to receive both the consent letter and client file from the firm, and the initial assessment of the file by one of OBSI’s Case Review Officers (CROs).
- Includes any delays resulting from an increase in complaint volumes or insufficient funding and staffing resources that delay the assignment of the file to an investigator.



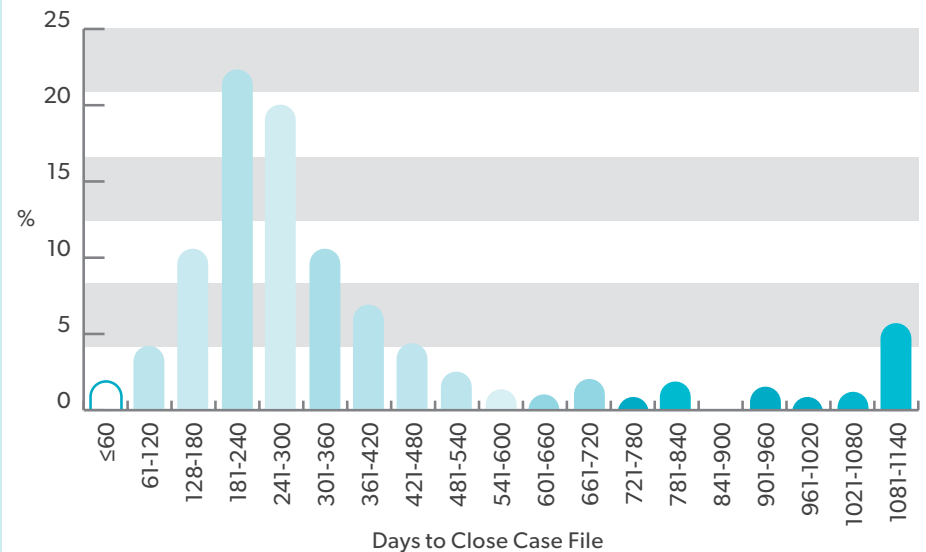
**Phase 2: OBSI investigation**

- Time period measured from the file being assigned to an investigator through to OBSI forming a view of the complaint’s merits, and either communicating our initial compensation recommendation to the firm or closing the file if no compensation is warranted.
- Includes both OBSI’s investigative process as well as factors outside of OBSI’s control, such as insufficient firm or client cooperation, failure to receive requested documents or information, and delays in clients or firm representatives making themselves available for interviews.

**Phase 3: firm/client decision-making**

- Covers only those complaint files where OBSI believes compensation is warranted. The majority of cases spend zero days in the phase and are not counted in time frame calculations.
- Time period measured from communication of our initial compensation recommendation to the firm through to closure of a case file, either with the firm compensating the client or officially refusing OBSI’s recommendation.
- Includes the firm’s decision-making process when deciding what action to take with regard to the complaint following OBSI’s conclusion that compensation is warranted. After the firm has agreed to compensation, in most cases the client accepts the settlement the same day, though OBSI’s process allows clients up to 30 days to decide.

**Investments**



The darker the shade, the greater the proportion of cases involving smaller firms.

Benchmark	Number of Investment Case Files	Percentage of Total
≤ 180 Days	79	16.7%
> 180 Days	393	83.3%
TOTAL	472	100.0%

### Banking products

Product	Main Product	Secondary Product	Product	Main Product	Secondary Product
Cheque	6	2	Loan – Car	2	0
Cheque – Bank Draft	2	0	Loan – Commercial	2	0
Credit Card	42	2	Loan – Conditional Sale Agreement	1	0
Debit Card	7	1	Loan – Consolidation	1	1
Insurance – CMHC/GE	1	1	Loan – Home Equity Loan	0	1
Insurance – Credit Protection	1	1	Loan – Line of Credit	6	2
Insurance – Disability	1	0	Loan – Mortgage	35	3
Insurance – Life	2	0	Loan – Other	3	0
Insurance – Travel	1	0	Loan – Overdraft Protection	1	0
Investment – GIC/ Term Deposit	11	1	Loan – Personal	7	0
Investment – GIC: Index Linked	1	0	Loan – Student	1	0
Investment – Mutual Funds	1	0	Other	1	0
Investment – RESP (REEE)	1	0	Safety Deposit Box	3	0
Investment – RRSP	5	3	Transaction Account – Commercial	6	1
Investment – RRSP (Self-Directed)	1	0	Transaction Account – Joint	2	1
Investment – Tax-Free Saving Account (TFSA/CELI)	2	0	Transaction Account – Personal	32	5
			Transfer – Electronic	2	0
			Transfer – Wire/SWIFT	6	0

### Banking issues

Issue Type	Main Issue	Secondary Issue	Issue Type	Main Issue	Secondary Issue
Amortization	1	0	Leverage/Excess	1	0
Bankruptcy	0	1	Missing or Lost Funds/Assets	17	1
Cashback	0	2	Overpayment Scheme	2	1
Chargeback	9	0	Partner/Spouse Issues	1	0
Cheque – Drawee Signature	1	0	Penalty	16	4
Claim Denied	1	0	Portability	1	0
Collection	10	2	Power of Attorney	3	2
Credit Report Rating	3	6	Privacy	7	1
Daily Limit	0	1	Product Modification	8	1
Dementia/Mental Incapacity	0	1	Relationship Ended	12	7
Disclosure	5	4	Risk/Business Decision	6	7
Elder Abuse	0	2	Service	21	12
Error – Bank	9	11	Stop Payment	1	1
Fees	8	7	Transaction – ABM	1	0
Forged Signature	1	0	Transaction – Branch	1	1
Fraud	24	2	Transaction – Foreign Exchange	2	0
Guarantor/Security	1	0	Transaction – Unauthorized	5	1
Hold on Funds	0	1	Information – Incomplete/Wrong/ Misrepresentation		
Information – Incomplete/Wrong/ Misrepresentation	14	9	Interest Rate	4	3
Interest Rate	4	3			

### Investment products

Product	Main Product	Secondary Product	Product	Main Product	Secondary Product
Asset Backed Securities	2	0	Leveraged Exchange-Traded Funds	15	6
Bonds, Debentures	13	3	Limited Partnerships (Flow-Throughs)	9	7
Closed-End Investment Funds	0	2	Mutual Funds	226	22
Common Shares	105	41	Other	22	5
Derivatives: Options, Futures, Warrants	10	1	Preferred Shares	7	7
Exchange-Traded Fund (ETF)	13	5	Principal-Protected Notes (PPNs)	2	3
Guaranteed Investment Certificates (GICs)	11	1	Scholarship Trust Plans	18	0
Income Trusts	4	13	Segregated Funds and Other Insurance Products	11	4
Labour Sponsored Fund	3	6	Split Shares – Capital Class	1	0

### Investment issues

Issue Type	Main Issue	Secondary Issue	Issue Type	Main Issue	Secondary Issue
Dementia/Mental Capacity	0	1	Other	7	3
Elder Abuse	0	3	Outside Business Activities, Off-Book Transaction	11	3
Fee Disclosure (DSC, LL, Management, Admin Fee)	45	37	Performance	8	7
Fraud (Theft/Forgery)	11	6	Power of Attorney	1	0
Inappropriate Advice (eg. RRSP Contribution)	5	9	Privacy	1	0
Inappropriate Investment Strategy	10	12	Service Issue	27	34
Incomplete or Inaccurate Disclosure About a Product	28	27	Suitability	184	52
Instructions Not Followed	19	8	Suitability of Margin or Leverage	60	21
Margin Issues	9	3	Transaction Errors	18	2
			Transfer Delay	8	6
			Unauthorized Transaction and/or Churning	20	26

### Top 10 firms with inquiries

		% of Total
BMO	643	11.2%
Scotia	612	10.7%
TD	609	10.6%
CIBC	449	7.8%
RBC	352	6.2%
Capital One Bank	329	5.7%
National	238	4.2%
HSBC	195	3.4%
Laurentian	164	2.9%
JP Morgan Chase	105	1.8%

In 2013, 265 out of 352 RBC inquiries (75%) and 487 out of 609 TD inquiries (80%) were about banking services, despite RBC having withdrawn from OBSI for banking complaints back in 2008 and TD in 2011. This clearly shows the confusion created for consumers in an environment where multiple dispute-resolution providers exist.

\* includes any banking or investment affiliates and subsidiaries.

### Top 10 firms – opened cases – banking

Firm	# of Opened Cases	% of Total
Scotia	56	27%
CIBC	42	20%
BMO	26	13%
HSBC	19	9%
National	15	7%
Laurentian	12	6%
Capital One Bank	5	2%
ICICI Bank Canada	5	2%
JP Morgan Chase	5	2%
Canadian Tire	4	2%

### Top 10 firms – opened cases – investments

Firm	# of Opened Cases	% of Total
Investors Group	40	9%
BMO	36	8%
National	28	6%
RBC	28	6%
TD	24	6%
Canaccord Genuity Corp.	16	4%
Investia Financial Services Inc.	16	4%
Scotia	15	3%
Dundee	15	3%
Desjardins	13	3%
Transamerica Securities Inc.	13	3%

### Banking services

Firm	Cases	Firm	Cases
Amex Bank of Canada	1	Investors Group Trust	1
B2B Bank	3	JP Morgan Chase Bank N.A., Canada	5
Bank of Montreal	26		
Canadian Tire Bank	4	Laurentian Bank	9
Capital One Bank	5	Manulife Bank of Canada	4
CIBC	42	National Bank of Canada	15
Equitable Bank	1	Peace Hills Trust	1
Home Trust Company	1	Peoples Trust Company	1
HSBC Bank Canada	19	President's Choice Bank	4
ICICI Bank Canada	5	Scotiabank	56
ING Direct	3	Servus Credit Union Ltd.	1
		<b>TOTAL</b>	<b>207</b>

### Investments – IIROC-regulated

Firm	Cases	Firm	Cases
ALL Group Financial Services Inc.	2	Jones, Gable & Company Limited	1
Argosy Securities Inc.	1	Laurentian Bank Securities Inc.	2
Assante Capital Management Ltd.	3	Leede Financial Markets Inc.	3
Aston Hill Securities Inc.	1	Mackie Research Capital Corporation	5
B2B Bank Securities Services Inc.	1		
BBS Securities Inc.	1	Manulife Securities Incorporated	8
BMO InvestorLine Inc.	7	National Bank Direct Brokerage Inc.	1
BMO Nesbitt Burns Inc.	16	National Bank Financial Inc.	27
Brant Securities Limited	1	OANDA (Canada) Corporation ULC	1
Burgeonvest Bick Securities Limited	1	Professional's Financial – Private Management Inc.	1
Caldwell Securities Ltd.	1		
Canaccord Genuity Corp.	16	Questrade, Inc.	6
CIBC Investor Services Inc.	2	Raymond James Ltd.	8
CIBC World Markets Inc.	8	RBC Direct Investing	5
Credential Securities Inc.	4	RBC Dominion Securities Inc.	14
Desjardins Securities Inc.	11	Richardson GMP Limited	7
DWM Securities Inc.	13	Scotia Capital	9
Edward Jones	6	Sprott Private Wealth LP	1
FIN-XO Securities Inc.	1	TD Waterhouse Canada Inc.	21
Friedberg Mercantile Group Ltd.	1	Trapeze Capital Corp.	3
Hampton Securities Limited	1	Union Securities Ltd.	4
Haywood Securities Inc.	4	Watt Carmichael Inc.	1
HSBC Securities (Canada) Inc.	2	Wolverton Securities Ltd.	3
Interactive Brokers Canada Inc.	1	Worldsource Securities Inc.	1
IPC Securities Corporation	1	yourCFO Advisory Group Inc.	1
Jennings Capital Inc.	2	<b>TOTAL</b>	<b>241</b>

### Investments – MFDA-regulated

Firm	Cases	Firm	Cases
Armstrong & Quaille Associates Inc.	2	Manulife Securities Investment Services Inc.	3
Assante Financial Management Ltd.	4	Monarch Wealth Corporation	9
BMO Investments Inc.	10	Olympian Financial Inc.	1
Desjardins Financial Security Investments Inc.	2	PFSL Investments Canada Ltd.	2
Dundee Private Investors Inc.	3	Portfolio Strategies Corporation	8
FundEX Investments Inc.	3	Quadrus Investment Services Ltd.	3
Global Maxfin Investments Inc.	2	Queensbury Strategies Inc.	1
GP Wealth Management Corporation	2	Royal Mutual Funds Inc.	8
Investia Financial Services Incorporated	16	Scotia Securities Inc.	3
Investors Group Financial Services Inc.	40	Sterling Mutuals Inc.	2
IPC Investment Corporation	5	TD Investment Services Inc.	3
		Transamerica Securities Inc.	13
		W.H. Stuart Mutuals Ltd.	6
		Worldsource Financial Management Inc.	6
		<b>TOTAL</b>	<b>157</b>

### Investments – CSA Registrant

Firm	Cases
1832 Asset Management L.P.	1
AGF Investments Inc.	1
Fidelity Investments Canada Limited	1
<b>TOTAL</b>	<b>3</b>

### Investments – Scholarship Plan Dealer

Firm	Cases
CST Consultants Inc.	3
Global RESP Corporation	7
Heritage Education Funds Inc.	10
Knowledge First Financial Inc.	6
<b>TOTAL</b>	<b>26</b>

### Investments – Other

Firm	Cases
B2B Bank	1
Bank of Montreal	3
Laurentian Bank	1
Royal Bank of Canada	1
Scotiabank	1
<b>TOTAL</b>	<b>7</b>



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