



May 8, 2018

Delivered by email: marketconduct@fSCO.gov.on.ca

Financial Services Regulation Policy
Financial Services Commission of Ontario
16th Floor
5160 Yonge Street, Box 85
Toronto M2N 6L9

Attn: Laura McLellan

Re: Consultation Draft – Superintendent’s Guideline: Treating Financial Services Consumers Fairly

The Ombudsman for Banking Services and Investments (OBSI) is pleased to provide comments to the Financial Services Commission of Ontario (FSCO) in relation to the recommendations expressed in the Consultation Draft – Superintendent’s Guideline: Treating Financial Services Consumers Fairly (the Fairness Guideline), released April 3, 2018.

As Canada’s national, independent dispute resolution service for banking and investment related complaints, OBSI shares FSCO’s interests in protecting financial services consumers and enhancing public confidence in the financial sector through the fair treatment of consumers.

OBSI applauds FSCO’s longstanding objective of ensuring fair treatment and protection of consumers in today’s complex and interconnected financial services marketplace. The Fairness Guideline is a positive step towards increasing consumer protection while ensuring more consistent standards for all financial service providers. We particularly support FSCO’s principles-based approach in this area and the Fairness Guideline’s explicit purpose of ensuring a common understanding of what it means to treat consumers fairly.

OBSI supports the key recommendations on complaints handling

OBSI specifically supports the Fairness Guidelines 7th recommendation, which states: “FSCO expects Licensees to have policies and procedures in place to handle complaints in a timely and fair manner.” We agree that consumer protection and fair treatment are best served when consumer complaints are addressed promptly and fairly by the financial services provider directly. This includes existing requirements for a clear and accessible complaint process, and providing a final position letter to the complainant that outlines their options for redress.

All licensees should be required to provide consumers with access to an ombudsman service

For consumers and firms that are unable to resolve disputes themselves, an ombudsman service is the most effective process to deliver affordable, impartial and fair dispute resolution. Consumers of insurance, banking and investment products and services in Ontario currently benefit from access to the dispute resolution services of the General Insurance OmbudService (GIO), the OmbudService Life and Health Insurance (OLHI), and OBSI.

We urge consideration of a statutory obligation for all Licensees to be part of an independent ombudsman. Bringing a consistent approach would be not only in the best interests of financial services consumers but would also ensure a common standard for all Licensees in the province.

Financial ombudsman services are a recognized international standard

Financial services ombudsmen provide consumers with a cost-effective alternative to the courts in cases that typically involve disputes of limited monetary value and involve parties with quite different levels of sophistication, knowledge and access to resources. Financial services ombudsmen also deliver access to justice for those without legal representation and those who are disadvantaged in their ability to understand and exercise their own rights and obligations.

The G20 High Level Principles on Financial Consumer Protection¹ endorsed by G20 finance ministers and central bank governors stated that financial services consumers should have access to complaint handling and redress mechanisms that are "accessible, affordable, independent, fair, accountable, timely and efficient."

A World Bank report² on fundamentals for the creation of independent and effective financial ombudsman services concluded that as well as leading to greater consumer confidence, access to financial ombudsman services can increase consumer participation in financial markets. The financial services sector also benefits from reduced complaint handling costs, and feedback from the ombudsman can help focus regulatory efforts and lead to an overall strengthening of the industry.

Systemic issues can be effectively identified by a financial services ombudsman

A financial services ombudsman further inspires consumer confidence in the financial services sector through the collection, review, and sharing of information, as well as identification of issues that may pose a systemic risk. The Fairness Guideline recognizes the importance of this by suggesting firms should analyze complaint data to identify individual or systemic risks. We support the spirit of the guidance, but recognize its limitations when applied exclusively at the firm level. An industry-wide ombudsman can more effectively aggregate and report on emerging issues, best practices, and systemic issues that have the potential to adversely affect consumers across the province.

In conclusion, OBSI commends the excellent work of FSCO in developing the proposed Fairness Guideline. We hope our comments and suggestions contribute to the discussion around improving financial services for consumers in Ontario and welcome future discussions on complaint handling in the financial services sector. We would be pleased to provide further information and answer any questions.

Sincerely,

Sarah P. Bradley
Ombudsman & CEO
Ombudsman for Banking Services and Investments (OBSI)

¹ G20 High Level Principles on Financial Consumer Protection - OCED <http://bit.ly/1vCn7NO>

² Fundamentals for a financial ombudsman — World Bank <http://bit.ly/28qw8A7>