UNIVERSITY OF TORONTO
FACULTY OF LAW

Ivy Lam
Director
78 Queen's Park
Toronto, ON, Canada M5S 2C5
Tel: 416-978-6012
IvyJD.Lam@utoronto.ca

Investor Protection Clinic

Alberta Securities Commission

Authorité des marchés financiers

British Columbia Securities Commission

Financial and Consumer Services Commission (New Brunswick)

Financial and Consumer Affairs Authority of Saskatchewan

Manitoba Securities Commission

Nova Scotia Securities Commission

Nunavut Securities Office

Office of the Superintendent of Securities, Newfoundland and Labrador

Office of the Superintendent of Securities, Northwest Territories

Office of the Yukon Superintendent of Securities

Ontario Securities Commission

Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

VIA EMAIL TO:

The Secretary

Ontario Securities Commission

20 Queen Street West, 22nd Floor

Toronto, Ontario M5H 3S8

Email: comments@osc.gov.on.ca

Me Philippe Lebel, Corporate Secretary and Executive Director, Legal Affairs

Autorité des marchés financiers

Place de la Cité, tour Cominar

2640 boulevard Laurier, bureau 400

Québec (Québec) G1V 5C1

Email: consultation-en-cours@lautorite.qc.ca

October 23, 2020

Dear CSA Working Group,

Re: Submission to the Canadian Securities Administrators (CSA) in response to the Consultation on the Self-Regulatory Organization Framework

We are writing on behalf of the new Investor Protection Clinic at the University of Toronto, Faculty of Law (the **IPC**) to provide our general feedback and comments on specific issues and the related targeted outcomes raised in *CSA Consultation Paper 25-402: Consultation on the Self-Regulatory Organization Framework* (the **CSA Consultation Paper**).

The IPC at the University of Toronto launched in September 2020 to provide free legal services and public legal education to members of vulnerable communities who are at risk of suffering harm, or may have suffered harm and financial loss, relating to their investments. We aim to improve access to justice by engaging in a broad range of activities to educate the community and to promote investor protection and rights. Our legal clinic serves retail investors in vulnerable populations by increasing their understanding and access to information on investor rights and recourse, and by providing free legal services. These communities will include the elderly and newcomers to Canada.

We examined aspects of the CSA Consultation Paper which have a disparate impact on retail investors and investor confidence, particularly those described under *Issue 5: Investor confusion and Issue 6: Public confidence in the regulatory framework*. In addition, we reviewed the materials referenced in Appendix B.

Below, we comment on three key concerns which relate to the following issues:

- reducing inefficiencies and investor confusion due to overlapping regulatory jurisdiction;
- improving investors' ease of access to advice and products; and
- improving the current regimes on enforcement and providing remedies for investors.

1. Reducing inefficiencies and investor confusion due to overlapping regulatory jurisdiction in the current SRO framework

We observe that inefficiencies due to overlapping regulatory jurisdiction create investor confusion. The current self-regulatory organization (**SRO**) framework is structured with a focus on specific products, such that Investment Industry Regulatory Organization of Canada (**IIROC**) members can offer a wide range of products from mutual funds, guaranteed investment certificates, stock, bonds and options to more complex alternatives, while Mutual Fund Dealers Association (**MFDA**) members can only offer mutual funds and exchange-traded funds (**ETFs**) that meet the definition of a mutual fund. Dealers not regulated by these two SROs are regulated by the CSA. This three-tiered system can cause confusion by limiting investor access to advice and products, making it difficult for retail investors to make the investment choices best suited to their needs and objectives.[1]

Having to navigate between the advisors and dealers under the various SRO regimes can lead to investor fatigue, resulting in investors giving up on finding the right investment for them. Investors in rural areas are especially susceptible to this fatigue. The more rural an area, the less diversity there is in dealer membership.[2] If a client of a MFDA dealer wants to diversify or expand their investment portfolio, they must open a new account with a new investment firm. As a result, investors sticking with one advisor are limited in their access to advice, knowledge, and investments. In addition, dealers whose clients wish to invest in products not offered by them may be incentivized to dissuade them from doing do. This is a potential conflict of interest which potentially limits and harms investor choice.

Moreover, the regulatory overlap in the current SRO framework causes inefficiencies in responding to evolving investor needs. When an investor's needs shift, their current advisor may not offer the products best suited to meet their changed circumstances. The newly-formed mismatch leads to suboptimal advice for their investment portfolio, and potential investor confusion and fatigue where the investor must spend time and energy to research and locate a new advisor and investment firm and open a new account.

Reduce investor confusion with consolidated SRO platform

Both IIROC and the MFDA have proposed a consolidation of the SRO platforms, though their respective proposals on how to reform the SRO framework differ.

IIROC proposes merging the platforms, followed by consultations to combine and streamline the rules one by one.[3] This approach looks to leverage the strengths of both the IIROC and MFDA. By contrast, MFDA proposes to build a new SRO to prevent being confined to traditional SRO rules; the MFDA explains that this approach may make it easier to implement new initiatives dealing with the duplicative inefficiencies and public mistrust of the system. Below, we comment on specific aspects of these proposals.

Improvements for investors under the proposals

Under either of the combined platform propositions, investors would be able to access a diversified pool of investment products without having to switch advisors or firms. Improved investment product access would improve investor to access to the best investment advisors and products that suit their risk profile, financial constraints and goals without being limited by dealer status. Accordingly, investors would be less likely to suffer investment fatigue or confusion.[4]

We regard IIROC's approach as beneficial because a more gradual change in the rules would allow investors and dealers to gradually adapt to the new SRO as the rules evolve. By contrast, starting an SRO from a blank slate is a longer, more complex process which requires the new rules be laid out from the outset. This complexity means investors would face significant delays before they can enjoy the benefits of the new system.

The MFDA approaches governance of the new SRO differently from the IIROC, but we believe elements from both proposals would boost investor and public confidence. IIROC approaches the new SRO's governance by proposing more board directors with investor protection experience and the building of an expert investor issues committee. By contrast, the MFDA emphasizes having CSA nominees in addition to industry and independent directors on the board. The active role played by CSA nominees will enhance public interest protection. A combination of board directors with greater investor protection experience and the active participation of CSA nominees will strengthen and protect investors' interests.

Investors are concerned about the strong influence of industry on the board of SROs, and the SROs' ability to fulfill their public interest mandate. The CSA's direct participation as a board member can alleviate conflicts of interest inherent to a SRO structure. In addition, directors on the board with investor protection experience would serve to balance out the industry perspective by giving a greater voice to investors' concerns.[5] We support FAIR Canada's proposal to staff the board of the new SRO with an equal share of directors who represent SRO dealer members'

interests and directors that represent the investing public's interests.[6] These changes to the new SRO governance structure would help guard against regulatory capture, ensuring that the new SRO does not act in a way to benefit the very industry that it regulates, rather than the public.

How will costs savings from merger benefit investors?

Under the current SRO framework, there are duplicative costs for firms that have both MFDA and IIROC registered dealers. Under a new single SRO framework, reduced operating costs to investment firms if passed on to their clients through reduced costs and fees would mean lower investment costs for retail investors.[7] If a new SRO framework could also simplify and streamline the investor experience by facilitating access to advice and products, that would reduce investor confusion and fatigue.

IIROC asserts that under its proposal, the merger to form a single SRO would reduce overhead of the member firms which will be re-invested into customer service and innovation. However, we are concerned that there seems to be no plan associated with how these funds will be reinvested. A study published by Deloitte states that over a 10 year period, the dual-platform investment firms can expect to save $380-$490 million CAD.[8] However, of the 175 dealer firms that IIROC regulates, only 25 are dual platform dealers. [9] Consequently, on the IIROC platform, only 14% of IIROC firms would benefit from these cost savings; 86% of the current IIROC dealers will not experience any savings. There is no guarantee that these savings by 14% of its members will be redistributed to retail investors.

Cost-savings alone should not be determinative of how to reform the SRO framework, especially without more plans on how the new framework would improve the investor experience and reduce confusion. A simple merger for cost savings, without more detailed proposals for reform on investor access to advice, products and complaint resolution, might lead the regulatory industry to become tired of this process, and stop before any real change has taken place. While there is no clear answer as to how to reform the SRO framework to best address the concerns of investors, we believe the CSA should consider which option would have the best long-term outcome for investors.

2. Improving investors' ease of access to advice and products

One of our overarching concerns with the current SRO framework is the lack of transparency and control in the wealth management process from the investor's perspective and how it may exacerbate barriers to investing.

Reducing barriers to investment services

There is a persisting lack of access to the full range of products from one representative and investors may face rigid barriers when attempting to transition between investment services. For example, there is a growing demand for ETFs, but access is limited for clients of mutual fund dealers.[10] Investors who wish to progress from mutual funds to ETFs may need to change firms or representatives.[11]

Some key factors which encourage investors to stay with more basic investment products include: comfort with their current financial advisors and existing mutual fund options[12], lower levels of trust in alternative products relative to mutual fund options[13], lack of access to a full range of products from one advisor or dealer[14], "friction" or high switching costs for investors between mutual funds and other products.[15] Such barriers may discourage an investor from investing compared to having an advisor within a dealer with access to a full range of products who can guide them through the entire financial planning and investment process in one setting.

We are also concerned with how investor access to investment products and services may be affected by due to the economic incentives of advisors and dealers under the current SRO framework. It is well documented in the financial economics literature that there is a fundamental, prevalent conflict between the interests of brokers and the interests of investors.[16] There is evidence that certain incentive structures skew mutual fund brokers incentives and can lead to worse investment performance for their clients.[17] There is also significant evidence that mutual fund sales loads skew brokers incentives leading brokers to sell inferior products to customers.[18] The current segregated SRO framework in Canada only exacerbates the problem by limiting the type of products that a particular dealer can sell, which could lead to investment advice which may not be the best tailored to their client's circumstances. For example, an MFDA member that can only sell mutual funds has an incentive to sell mutual funds to their clients whether or not a different investment product may be better suited for their clients' needs.

Promoting more equitable access

The current regulatory framework may perpetuate differences in access based on geographic, demographic or pecuniary differences. For example, an investor residing in a rural area may not have access to certain products offered by IIROC dealers as these areas are predominantly occupied by mutual fund dealers.[19]

In considering how to reform the SRO framework, we consider that more equitable access to investing may be promoted through improving consistency and transparency in the interpretation of standards under the current regulatory framework by each of the SROs.[20] For example, differences in interpretation of suitability requirements by each SRO create different ranges of access to products for the same investor. A particular product may be viewed as suitable by a member

of the IIROC, but unsuitable by the MFDA.[21] This creates differences in access to advice and range of products by two different investors who otherwise have identical characteristics and risk profiles.

Under a new SRO structure of a single SRO, whether in the form envisaged by IIROC or the MFDA, investor access to products could increase by allowing one-stop shopping, a feature desired by 86% of current investors.[22] It would also promote competition for clients among dealers by enlarging the dealer pool rather than separating dealers into two siloes. Overall, a single SRO would allow for a larger and more efficient investments market.

Simply consolidating SROs into a new regulatory framework will not guarantee improved access to investment products or services. Housing the current regulatory framework within a parent organization, or having one organization absorb the other does not change the retail investor experience unless this new organization is focused on harmonizing regulations of dealers and product offerings, and sharing information about access to products, services, and advice with the public through outreach. It would be important for any new SRO framework to emphasize the need to improve access, but it should also help investors understand what investment services and products are available and how to find an advisor.

3. Improving the current regimes on enforcement and providing remedies for investors

Shortcomings of SRO enforcement under the SRO framework

Under the current SRO framework, violations of SRO rules can lead to fines, suspensions or industry bans for both firms and individuals.[23] Yet despite these enforcement sanctions, we believe that reform of the SRO framework should address the need for improved enforcement mechanisms to properly protect retail investors. Most notably, SROs lack the power to order restitution or to compensate victims of wrongdoing by investment dealers.

We recognize that the level of coordination required between government and CSA members could be problematic and poses challenges for establishing a compensation scheme for investors, particularly at the SRO level. However, in our view, an amended SRO framework should improve on the current avenues of recourse available to investors and make an investor compensation scheme simple to administer and accessible to investors.

What can be improved for investors?

In the United States, regulators can create compensation funds for harmed investors.[24] These funds are generally made up of disgorged amounts, fines and interest.[25] Ideally, a Canadian system would offer restitution in a similar way. To be effective, then, SROs should have: (1) the power to maximize fine collections; and (2) a structure which makes restitution orders as simple as possible for investors.

Today, industry representatives looking to avoid a fine imposed by IIROC or the MFDA need only leave the industry – which many do.[26] In response, some provinces have sought to increase fine enforceability.[27] While this has helped, most fines still remain unpaid.[28] One potential solution, to improve enforceability, would involve firms paying any amounts owed by former advisors.[29] SRO contracts with dealer firms could, for example, include joint and several liability clauses as between firms and their representatives. This would increase collections, while also incentivizing compliance and supervision at the firm level.[30] We are cognizant that this contractual mechanism might allow firms to indemnify advisors. However, in our view, investor compensation and protection should be prioritized.

A single, comprehensive SRO would likely be more successful in administering a future investor compensation scheme. It would allow for a single recovery fund (regardless of product type), while minimizing investor confusion over the process. Even if an SRO did not administer such a scheme, a single, comprehensive SRO would help ensure consistency in both outcome and public communication.

The difficulties of pursuing compensation for an investor under the IIROC arbitration program

Currently, an investor seeking a legally binding resolution for a dispute with an IIROC dealer must consider either the IIROC arbitration program or civil litigation. In the event an investor wishes to proceed with arbitration, they must pay arbitration fees and related costs. Furthermore, while investors are not required to hire legal representation in arbitration proceedings, the dealer firms against whom they are seeking compensation will always be represented by a lawyer.

This dynamic creates a difficult situation for investors who have suffered financial loss and harm due to misconduct or non-compliance by their investment dealer firm and/or investment advisor. First, investors must grapple with the costs of arbitration fees which may be prohibitive depending on the financial resources available to that investor. Secondly, investors face the daunting prospect of representing themselves in a legal proceeding against experienced counsel and this may lead to pressure to retain legal counsel in arbitration, further increasing the direct costs to investors. For many investors, the high cost of legal representation relative to the loss suffered may hinder them from pursuing the claim. Third, IIROC arbitration is capped at $500,000 plus interest and legal costs.[31] While $500,000 is not an

immaterial amount of money to many retail investors, it may not be sufficient to an investor who has lost their life savings due to their dealer or advisor's misconduct. This creates a barrier for investors who have lost more than $500,000 as they will have to pursue much more costly and time-consuming litigation.

Changes to the IIROC arbitration program should focus on reducing the direct costs that currently fall on the complainant in order to make the program more accessible to investors. As it stands, administrative and arbitrator fees are usually divided equally between the investor and the IIROC dealer firm. IIROC should consider different measures that could allow for a subsidization of investor fees related to arbitration, either through increased membership fees or through use of collected fines. In addition, resources should be dedicated to increasing investor competence in self-representation so that if an investor cannot afford the costs associated with retaining legal counsel, they will not be disadvantaged in arbitration proceedings. This could be accomplished by creating investor-focused brochures or webcasts that explain the essentials of how to represent oneself in an arbitration proceeding.

Improving the OBSI complaint process for investors

In our view, the Ombudsman for Banking Services and Investments' (**OBSI**) non-binding recommendation authority contributes to the complexity of the SRO framework and is not sufficiently comprehensive to act in the public interest. Under the current regime, OBSI only has the power to issue recommendations for remedies.[32] These recommendations, while often followed, are non-binding on dealer-members of the SROs.

Consequently, firms could negotiate down the amount of compensation paid out to affected customers. A review found that in over 1 in 3 cases considered by OBSI, the paid out compensation was not the recommended sum.[33] While in half of the cases, the subsequent payment was more favourable to the affected customer, in cases where the payment was negotiated down, the reduction in payment amounts was over three times the total increase in payments. This incapacity to issue binding recommendations undermines the industry's reputation and investor confidence. Reform of the SRO framework should consider how to improve the enforceability of OBSI recommendations, if it is not feasible for OBSI decisions to have binding authority.

While we acknowledge the significant benefit to investors of having a complaint process through OBSI, we observe a number of aspects that can be improved, which in turn would improve access to justice for investors. For instance, the burden of supplying evidence falls on the customer, yet customers are not given any guidance on what type of evidence may be material. The online application process does not provide any guidance on what to include or may be relevant to the complaint. Case studies on the website show what factors OBSI may consider during the investigation process for a successful claim. However, these case studies feature financial terminology and situations which an average customer may

not be familiar with. Moreover, the non-participatory nature of OBSI's complaint process disregards the importance of testimony from the parties that ultimately suffered loss. For those without the resources to access the court system OBSI may be their only alternative. Yet, it lacks crucial features that can help reach a fair and just decision.

Summary and Conclusions

We have commented on those aspects of the CSA Consultation Paper which have a disparate impact on retail investors and investor confidence, particularly those described under *Issue 5: Investor confusion* and *Issue 6: Public confidence in the regulatory framework*. Our three key concerns relate to:

1. reducing inefficiencies and investor confusion due to overlapping regulatory jurisdiction;

2. improving investors' ease of access to advice and products; and

3. improving the current regimes on enforcement and providing remedies for investors.

A consolidated SRO platform, whether achieved through merger or the formation of a new SRO, would benefit investors by having the potential to reduce investor confusion and fatigue. We believe that a consolidated SRO would also serve to reduce barriers to investment advice, products and services that investors currently face, as well as promote more equitable access to investing.

Cost savings should not be the primary determinant for the new SRO structure, without considering how the savings may lower costs for investors or otherwise improve investor access to advice, products and complaint resolution.

The restructuring of the SRO framework must address the shortcomings of the complaints and disputes resolution processes for investors. An improved framework should provide for the power to maximize fine collections and a dispute resolution process which can provide compensation or restitution to investors in a timely and cost-effective manner. To promote its public interest mandate, a new SRO's governance structure should include a board of directors with investor protection experience, CSA nominees and independent directors.

We believe that reform of the SRO framework which considers and addresses the issues which we have highlighted will serve to improve investors' understanding, provide appropriate investor protection and ultimately serve the public interest.

We thank you for the opportunity to comment and participate in this consultation process.

Sincerely yours,

Project SRO Working Group

Investor Protection Clinic

The University of Toronto, Faculty of Law

Appendix A

Members of the Project SRO Working Group

Ivy Lam, Director of the Investor Protection Clinic

Jacob Broz

Mitchell Hayes

Michelle Huong

Shawn Lallman

Anton Lunyov

Jacob Reynolds

Karan Sharma

Nick Studley

Chandrasekar Venkataraman

Bryan Yau

Appendix B

Endnotes

[1] The lack of dealer product uniformity due to overlapping regulatory jurisdiction confuses investors. For example, someone who deals exclusively with an Approved Person under the MFDA will only be offered and have the option of mutual funds. The investor may not be aware that there are other investment products or why their advisor cannot offer other products and they can be left confused by this.

[2] See “Consultation on the Self-Regulatory Organization Framework” (June 2020) 43 OSCB 5484, CSA Consultation Paper 25-402 at 12, online: *Ontario Securities Commission* <https://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20200625_25-402_consultation-self-regulatory-organization-framework.htm>

[3] IIROC proposes the merger of the IIROC and MFDA platforms; MFDA goes further and suggests the merger of IIROC, MFDA, and direct registrants under the CSA.

[4] Though we understand that the MFDA proposal (regarding improved access) is contingent on a change in the registrant category regime, the IIROC proposal would only allow mutual fund dealers to distribute ETFs in an easier way and this improvement is contingent on better access to the ETF clearing and settlement system.

[5] We would also propose a clearer definition of ‘independent director’. We suggest that greater clarity in the roles for the board members of the new SRO may ensure the SRO’s public interest mandate is upheld.

[6] See Ermanno Pascutto, "Submission to CSA on the proposed scope of the review of self-regulatory organizations” (27 March 2020) at para 16, online: *FAIR Canada* <https://faircanada.ca/submissions/submission-to-csa-on-the-proposed-scope-of-the-review-of-self-regulatory-organizations/>

[7] See Joanne De Laurtentiis, “Ripe for Reform: Modernizing the Regulation of Financial Advice” (October 2019) at 3, online (pdf): *CD Howe Institute* <https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/Commentary%20556.pdf>

[8] See Deloitte Touche Tohmatsu Limited, "Assessment of the Benefits and Costs of Consolidation” (July 2020) at slide 11, online (pdf): *IIROC* <https://www.iiroc.ca/industry/sro-proposal/Documents/Deloitte_Assessment_of_Benefits_and_Costs_of_SRO_Consolidation_Final_EN.pdf>

[9] *Ibid* at 23

[10] *Ibid* at 9

[11] See *supra* note 6 at 24

[12] See Pollara Strategic Insights, "Canadian Mutual Fund & Exchange-Traded Fund Investor Survey" (September 2020) at slide 8, online (pdf): *IFIC* <https://www.ific.ca/wp-content/uploads/2019/09/IFIC-and-Pollara-Strategic-Insights-Investor-Survey-September-2019.pdf/23217/>

[13] *Ibid*

[14] See *supra* note 9 at 9

[15] See *supra* note 6 at 24

[16] Susan E. K. Christoffersen, Richard Evans & David K. Musto, "What Do Consumers' Fund Flows Maximize? Evidence from Their Brokers' Incentives" (2012) 68:1 J Finance 201.

[17] *Ibid*

[18] Mark Egan, "Brokers versus Retail Investors: Conflicting Interests and Dominated Products" (2019) 74:3 J Finance 1217.

[19] *Supra* note 2 at 22

[20] We would also include the extension of the SRO's oversight functions to direct registrants (Exempt Market Dealers, Portfolio Managers, Scholarship Plan Dealers).

[21] *Supra* note 2 at 17

[22] See the Strategic Counsel, "Access to Advice: Key Findings" (Jan 2020) at 6, online (pdf): *IIROC* <https://www.iiroc.ca/investors/Documents/Access-to-Advice-Presentation-FD_en.pdf>

[23] IIROC, "Penalties: What A Panel Can Impose" (2020), online: *IIROC* <https://www.iiroc.ca/industry/enforcement/Pages/Penalties-What-the-Panels-Can-Impose.aspx>; MFDA, "Enforcement" (2020), online: *MFDA* <https://mfda.ca/enforcement/sanction-guidelines/>

[24] Drew Hasselback & Barbara Shecter, "The OSC has introduced steps to help recover funds for wronged investors, but are they enough?", (30 October 2015), online: *Financial Post* <https://financialpost.com/news/fp-street/the-osc-has-introduced-steps-to-help-recover-funds-for-wronged-investors-but-are-they-enough>; FINRA, "Legitimate Avenues for Recovery of Investment Losses" (2020), online: *FINRA* <https://www.finra.org/investors/have-problem/legitimate-avenues-recovery-investment-losses>.

[25] *Ibid*.

[26] Barry Critchley, "IIROC and unpaid fines Part 11: Time to give it the power in Ontario to collect from those who leave the industry", (9 March 2016), online: *Financial Post* <https://financialpost.com/news/fp-street/iiroc-and-unpaid-fines-part-11-time-to-give-it-the-

power-in-ontario-to-collect-from-those-who-leave-the-industry>; David Baines, “MFDA struggling to collect fines”, *Investment Executive* (5 December 2007), online: investmentexecutive.com/newspaper_/news-newspaper/news-42184/.

[27] Peter R Greene & Wendy Sun, “IIROC And MFDA Can Now Collect Fines In Court” (5 July 2017), online (blog): *The Litigator* <https://www.thelitigator.ca/2017/07/iiroc-and-mfda-can-now-collect-fines-in-court/>

[28] IIROC, “Enforcement Report 2019” (2019) at 23, online (pdf): *IIROC* <https://www.iiroc.ca/news/Documents/IIROC2019EnforcementReport_en.pdf> [*IIROC*]; IIROC, “Enforcement Report 2019” (2019) at 23, online (pdf): *IIROC* <https://www.iiroc.ca/news/Documents/IIROC2019EnforcementReport_en.pdf>. Fine collections from individuals have gone up materially in 2018 and 2019.

[29] Ken Kivenko, “Request for Comments Regarding the Statement of Priorities for Financial Year to End March 31, 2019” (30 April 2018) at 16, online (pdf): *Ontario Securities Commission* <https://www.osc.gov.on.ca/documents/en/Securities-Category1-Comments/com_20180430_11-780_kenmar.pdf>. Having firms pay outstanding fines is also discussed in this paper.

[30] *Ibid*. See also *IIROC, supra* note 28 at 23. Firms generally pay fines.

[31] IIROC, “Getting Your Money Back” at Arbitration, online: *IIROC* <https://www.iiroc.ca/investors/gettingyourmoneyback/Pages/default.aspx#:~:text=The%20Arbitrator%20can%20award%20up,costs%20to%20the%20successful%20party>

[32] It operates on a “name and shame” basis by publishing a firm’s refusal to follow through on OBSI’s recommendations. An independent evaluation of OBSI in 2016 (Page 27) noted, however, that there was no evidence that naming and shaming had improved the behaviour of those who were at risk of outright rejecting OBSI’s decisions. The evaluation is found online (pdf): *OBSI* <https://www.obsi.ca/en/news-and-publications/resources/PresentationsandSubmissions/2016-Independent-Evaluation-Investment-Mandate.pdf>

[33] *Ibid*