

CSA Notice and Request for Comment 25-314

*Proposed Approach to Oversight and Refinement of the Proposed
Binding Authority Framework for an Identified Ombudservice*

September 29, 2025

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Dear Dear Sirs/Mesdames:

RE: CSA NOTICE AND REQUEST FOR COMMENT 25-314 PROPOSED APPROACH TO OVERSIGHT AND REFINEMENT OF THE PROPOSED BINDING AUTHORITY FRAMEWORK FOR AN IDENTIFIED OMBUDSERVICE (THE “PROPOSED FRAMEWORK”)

The Canadian Forum for Financial Markets (the “CFFiM”) is a values-driven, purposeful, and reform-minded organization. The CFFiM is dedicated to advancing initiatives that improve the health and competitiveness of Canada’s financial markets for the greater good. The CFFiM works to provide constructive analyses and recommendations to stimulate capital raising, regulatory modernization, and inclusive financial growth in Canada.

The CFFiM’s within analysis on the Proposed Framework is guided by these core principles. The CFFiM welcomes an open and fair-minded review of its analysis in furtherance of a substantive and constructive consultation process without mischaracterizing this analysis as a “just say no” attitude towards the OBSI.¹

¹ Grant Vingoe and Andrew Kreigler, “[Canadian Investors Need a more Powerful Financial Services Ombudsman](#)” Globe and Mail (April 3, 2024); and Jameson Berkow, “[Binding regime for investment disputes inches closer to reality - The Globe and Mail](#), (July 15, 2025)” quoting Grant Vingoe.

I. EXECUTIVE SUMMARY

The CFFiM supports the purpose of the Proposed Framework, which is to provide investors with a system of redress that promotes investor confidence in Canada's regulatory system. However, the Proposed Framework will not achieve those worthy goals. Rather, if adopted, the Proposed Framework will fundamentally alter the OBSI to the detriment of firms, representatives, and the investors that they serve.

The CFFiM's concerns with respect to the Proposed Framework are summarized as follows:

- (1) **Lack of Supporting Data or Substantive Analysis:** The Proposed Framework is not supported by any data or substantive analysis to demonstrate that refusals or 'low settlements' are a systemic or recurring problem that requires any regulatory response let alone a response that is as extreme as the Proposed Framework. In addition, no data or analysis has been produced on the effects that the Proposed Framework may have on Canada's regulatory system, markets, and investors. As a consequence, the Proposed Framework is presented as a solution for a regulatory problem that does not exist and without adequate consideration having been given to its impacts.
- (2) **The Proposed Framework is Unconstitutional:** The Proposed Framework is not supported by a disclosed constitutional analysis. However, based on the information that has been disclosed, the Proposed Framework will create an adjudicative body that contravenes s. 96 of the *Constitution Act, 1982* (the "**Constitution Act**").
- (3) **Negative Implications:** The Proposed Framework:
 - a. Risks creating an inconsistent regulatory landscape that negatively impacts innovation, competition, and investment in Canada's capital markets;
 - b. Undermines the OBSI's independence; and
 - c. Does not promote access to justice or meet the basic requirements of procedural fairness.

The existing OBSI model has facilitated the resolution of thousands of disputes over the course of its 25-year history without the need for binding decision making powers. The Proposed Framework is disproportionate to the data produced and should be abandoned. Alternative policies should be considered with the aim of refining the OBSI's existing process for the benefit of firms, representatives and investors.

II. THE PROPOSED FRAMEWORK NOT SUPPORTED BY DATA OR SUBSTANTIVE ANALYSIS

The Proposed Framework is informed by recommendations made in past OBSI's evaluations² and the final report of the Capital Markets Modernization Taskforce.³ However, as with any regulatory proposal, it is incumbent on the CSA to conduct its own analysis rather than rely solely on past third-party evaluations and recommendations.

The above noted reports and the Proposed Framework all repeat the inaccurate claim that Canada has failed to keep pace with other jurisdictions in providing a designated financial ombudsman with binding decision-making powers. Contrary to this claim, providing an ombudsman with binding decision-making power has not been recognized as an international "best practice" and the vast majority of ombud services in other jurisdictions maintain recommendation-based systems.⁴ The assertion that Canada has fallen behind international standards is incorrect and misleading.

In any event, Canada's needs and characteristics should be the primary driver for changes in policy rather than the decisions that have been made in other jurisdictions. The Proposed Framework is not supported by any substantive data or analysis on Canada's markets, investors, or investor redress systems.

No data has been produced showing the need to provide the OBSI with binding decision-making powers. In stark contrast, the OBSI's publicly available statistics indicate that the OBSI's existing "name and shame" system is effective in resolving investor complaints. The OBSI's statistics show that its recommendations are almost universally accepted, with only eight recommendations having been refused over the last decade and no refusals since 2020.⁵ Further, no data has been produced to substantiate the claim that the OBSI suffers from "low" settlements. In contrast, the OBSI's statistics indicate that cases involving settlements below the amount of an OBSI recommendation are exceedingly rare and have been on a steady decline since 2017, which coincides with the CSA's decision to focus on the issue of low settlements in firm compliance reviews.⁶

As demonstrated below, the OBSI's statistics contradict the claim that low settlements and refusals are an ongoing and systemic concern. Rather, the total number of cases that have resulted in a low settlement or a refusal represent less than 1% of OBSI's recommendations since 2015.

² See: Deborah Battell and Nikki Pender, [Independent Evaluation of the Canadian Ombudsman for Banking Services and Investments' Investment Mandate](#) (May 2016) [the OBSI's "2016 Evaluation"]; and Poonam Puri and Dina Milivojevic, [Independent Evaluation of the Ombudsman for Banking Services and Investments](#) (June 13, 2022) [the OBSI's "2021 Evaluation"].

³ Capital Markets Modernization Taskforce, [Final Report](#) (January 2021), at pp. 104-106 [the "Capital Markets Modernization Report"].

⁴ See: Schedule "A" to the [letter](#) from the CFFiM (then operating as the Investment Industry Association of Canada) to all provincial and territorial securities regulators dated February 28, 2024 [the CFFiM's "February 2024 Response Letter"]; and the [letter](#) from the CFFiM (then operating as the Investment Industry Association of Canada) to the CSA dated March 13, 2023.

⁵ See: Fig. 1 and 2 below.

⁶ *Ibid* and Joint CSA Staff Notice 31-351, IROC Notice 17-0229, MFDA Bulletin #0736-M, [Complying with requirements regarding the Ombudsman for Banking Services and Investments](#) (2017).

Fig. 1. OBSI Recommendations – Investment Complaints⁷			
Year	Cases with Recommendations for Monetary Compensation	Low Settlements	Refusals
2015	166	23	6
2016	150	26	1
2017	150	23	0
2018	135	11	0
2019	180	12	0
2020	142	8	1
2021	215	8	0
2022	148	3	0
2023	175	2	0
2024	216	2	0
Total	1,677	118	8

Fig. 2. OBSI Recommendations – Banking Complaints⁸			
Year	Cases with Recommendations for Monetary Compensation	Low Settlements	Refusals
2019	71	0	0
2020	92	0	0
2021	120	0	0
2022	123	0	0
2023	371	0	0
2024	732	4	0
Total	1,509	4	0

In addition, the data produced in support of the proposition that the percentage of OBSI cases involving low settlement increases as the value of the recommended compensation increases, appears to be inconsistent with publicly available data. For instance, Table 1 of the OBSI’s 2023 Request for Comments indicates that the total number of cases with recommendations for monetary compensation between 2018 and 2022 was 546, which is far less than the 820 cases that were reported in the OBSI’s annual reports for the same time period. This inconsistency calls into question the accuracy of the figures in the column titled “% of cases settled below OBSI’s recommended amount”. The CFFiM has delivered a *Freedom of Information Act* request to obtain further information on this issue.

Further, no analysis or data on the effects that the Proposed Framework may have on Canada’s capital markets has been produced. As discussed below, the UK government is in the midst of an extensive review of its financial ombud services in response to concerns that its binding system has contributed to a regulatory environment that deters innovation, investment, and competition in the UK.

⁷ These statistics are gathered from: (1) The annual reports of the OBSI Joint Regulatory Authority for the years 2015 to 2024, which are available [here](#); (2) the OBSI’s Annual Reports for the years 2015 to 2024, which are available [here](#); (3) the OBSI’s 2016 Evaluation, *supra* at pp. 27-28; and (4) the OBSI’s 2021 Evaluation, *supra* at p. 36.

⁸ *Ibid.*

III. THE PROPOSED FRAMEWORK IS UNCONSTITUTIONAL

The Proposed Framework appears to violate s. 96 of the *Constitution Act*. On its face, this provision appears innocuous and provides the Federal Government of Canada with the power to appoint judges of the Superior Courts in each province. However, as a corollary, this provision has also been interpreted as limiting the ability of provincial legislatures to provide tribunals and other administrative bodies with judicial powers.⁹

The Proposed Framework does not satisfy the three-part test laid out by the Supreme Court of Canada in *Re Residential Tenancies Act* for determining whether a grant of power contravenes s. 96 of the *Constitution Act*.¹⁰ In addition, the Proposed Framework does not meet the secondary “core jurisdiction” test articulated by the Supreme Court of Canada in *MacMillan Bloedel Ltd. v. Simpson*¹¹ and in *Re Code of Civil Procedure*.¹² The Proposed Framework has the following characteristics, which suggest that it is unconstitutional:

1. The OBSI will be responsible for resolving civil complaints between provincially incorporated firms and their clients by making binding financial awards and requiring firms to take “corrective actions” which is akin to the Superior Courts’ power to award damages and grant injunctive relief.
2. The OBSI will serve a judicial function by making decisions with reference to a “fairness standard” derived from the law and other sources.
3. The scope of the jurisdiction granted to the OBSI through the Proposed Framework is significant and includes the ability to make binding decisions to resolve any “complaint” made by a retail investor against any investment firm or federally regulated bank in Canada.
4. The monetary limits under the proposed framework are substantial and include orders for payments up to \$350,000. However, the OBSI is able to make recommendations that exceed \$350,000 where the client has made multiple complaints. An example includes “Case Study #1” in the OBSI’s 2024 Annual Report, where the OBSI recommended total compensation in the amount of \$445,452 but the parties subsequently entered into a “low” settlement. In addition, the Proposed Framework contemplates that the OBSI will have the discretion to increase its monetary limits. The Capital Markets Modernization Taskforce has already recommended that the OBSI’s monetary limits be increased to \$500,000 with subsequent increases every two years.¹³
5. The Superior Courts will have no jurisdiction over a complaint once the OBSI process has been initiated and parties will have no rights of appeal to the Superior Courts.
6. The OBSI’s contemplated judicial function is not ancillary to the OBSI’s wider regulatory structure but, in contrast, is the OBSI’s sole contemplated function.

The Requests for Comments and the Ontario Securities Commission’s Cost Benefit Analysis make clear that the purpose of the Proposed Framework is to create an adjudicative body that competes with and draws complaints away from the Superior Courts. The Proposed Framework damages the courts’ ability to uphold the rule of law. It is not within the authority of provincial securities regulators or provincial legislatures to empower the OBSI to make binding decisions as contemplated in the Proposed Framework.

⁹ Section 96 has been interpreted as one of the three “pillars in the temple of justice [...] not to be undermined.” *Re Residential Tenancies Act*, 1981 CanLII 24 (SCC) at pp. 728 and 729 [*Residential Tenancies*]. Citing *Toronto Corporation v. York Corporation*, 1938 CanLII 252 (UK JCPC).

¹⁰ *Ibid* at pp. 734-736.

¹¹ 1995 CanLII 57 (SCC) at para 30.

¹² 2021 SCC 27 (CanLII) at paras 87-130.

¹³ Capital Markets Modernization Report, *supra* at p. 106.

IV. THE NEGATIVE IMPLICATIONS OF THE PROPOSED FRAMEWORK

Regulatory Uncertainty

Recent developments in the UK highlight the problems associated with providing a financial ombud service with binding powers. On March 31, 2025, the UK government released a regulation action plan in response to concerns that the UK's regulatory landscape is inhibiting private sector investment and impacting the competitiveness of the UK's financial markets.¹⁴ As part of this action plan, the UK Treasury was tasked with reviewing the practices of the UK's Financial Ombudsman Service (the "FOS").¹⁵

On July 15, 2025, the same day that the Proposed Framework was published, the UK Treasury announced the results of its review and its recommendations to amend to FOS (the "**Leeds Reforms**").¹⁶ The UK Treasury acknowledged that regulatory certainty and consistency is crucial for attracting investment and supporting innovation and, in turn, delivering the best possible outcomes for consumers, businesses, and the wider economy.¹⁷ However, since its inception, stakeholders have consistently raised the concern that the FOS' ability to resolve disputes with reference to laws and regulation has contributed to inconsistent outcomes for consumers and uncertainty for firms.¹⁸ According to the Treasury, the FOS' binding powers have unintentionally transformed the FOS into a "quasi regulator" due to the fact that its decisions create precedents for firm behaviour.¹⁹ This has had the effect of creating inconsistent and unpredictable regulatory expectations, which can suppress investments and innovation in financial markets.²⁰

In order to address this problem, the Leeds Reforms includes significant changes to the FOS system including amendments to the FOS' standard of fairness and reasonableness.²¹ According to this revised standard, all firms that are able to demonstrate compliance with existing regulations will be deemed to have acted "fairly and reasonably" regardless of whether the other considerations of "fairness and reasonableness" weigh in favour of a different result.²² This will have the effect of restricting the FOS' latitude in determining what is fair and reasonable in a given case. Further, where a complaint gives rise to issues that have the potential to result in wider implications, the FOS will be *required* to refer the issue to the UK's Financial Conduct Authority for a determination.²³

The Proposed Framework is premised on the FOS system but the request for comments makes no reference to the Leeds Reforms and the UK government's acknowledgment that providing an ombud service with binding powers can contribute to a regulatory environment that deters innovation, foreign investment, and competition.²⁴ These outcomes would be especially problematic in Canada given the size of its markets and patchwork system of securities regulation.

¹⁴ Government of the United Kingdom, [New Approach to Ensuring Regulators and Regulation Support Growth](#) (March 31, 2025).

¹⁵ *Ibid.*

¹⁶ HM Treasury, [Review of the Financial Ombudsman Service – Consultation](#) (July 2025) [**Leeds Reforms**].

¹⁷ *Ibid.* at p. 6 and 9.

¹⁸ As with the OBSI, the FOS is required to make recommendations based on what is fair and reasonable in all the circumstances of a case. In considering what is fair and reasonable, the FOS must consider relevant law, regulations, rules, guidelines, standards, and codes of practice. Financial Conduct Authority Handbook (UK), DISP 3.6.2 and 3.6.4.

¹⁹ *Leeds Reforms, supra* at p. 9. See also: The Right Honourable Rachel Reeves, [Rachel Reeves Mansion House 2025 Speech](#) (July 15, 2025).

²⁰ *Ibid.*

²¹ Leeds Reforms, *supra* at pp. 14-15.

²² *Ibid.*

²³ *Ibid.*

²⁴ CSA Notice and Request for Comment, [Registered Firm Requirements Pertaining to an Independent Dispute Resolution Service](#) (November 30, 2023) at pp. 4, 5, and 15.

Compromised Independence

The proposed designation order (the “**Proposed Designation Order**”) and memorandum of understanding (the “**Proposed MOU**”) are of significant concern. These instruments will fundamentally alter the OBSI’s function such that it cannot be considered an independent or impartial ombudsman but will more closely resemble an arm of Canada’s provincial securities regulators.²⁵ Whereas the OBSI’s current memorandum of understanding underscores the importance of *cooperation and communication* between the OBSI and provincial securities regulators²⁶, the Proposed Designation Order and Proposed MOU are designed to provide regulators with direct *control* over the OBSI. This is evidenced by the following:

- a. **Required Consent:** The Proposed Designation Order requires the OBSI to obtain consent from provincial regulators prior to making decisions on its own processes including any changes to its terms of reference, procedural rules, guidelines, and/or loss calculation methodology.²⁷ This effectively nullifies the OBSI’s ability to make independent decisions with respect to its processes.
- b. **Oversight Activities:** The Proposed MOU provides provincial regulators with extensive oversight and review powers that are not found in the Current MOU. This includes the ability to establish priority plans for the OBSI and engage in examinations and reviews of the OBSI to assess how the OBSI: (a) applies the fairness standard; (b) interprets securities law; (c) applies the inquisitorial process; and (d) uses the essential process test.²⁸ This further erodes OBSI’s independence.
- c. **Compliance:** The Proposed Designation Order requires the OBSI to comply with requests from provincial securities regulators. For example, the OBSI *must* produce information and cooperate “as the Commission or its staff may request” and *must* cooperate and assist securities regulators in any OBSI review.²⁹ These terms differ from the permissive language contained in the current MOU and clearly provide provincial regulators with a level of control over the OBSI.
- d. **Required Notification:** The Proposed Designation Order contains extensive reporting obligations not found in the current MOU.³⁰ This includes the requirement to promptly notify regulators of “any potential material violation of applicable securities legislation [...]”.³¹ The clear intent of this provision is to coopt the OBSI into provincial investigation and enforcement activities.

The impact of the Proposed MOU and Recognition Order cannot be overstated. The above noted amendments will effectively integrate the OBSI into the provincial regulatory framework. This will compromise the OBSI’s impartiality and give rise to a reasonable apprehension of bias in the OBSI’s decision-making process.

²⁵ A similar change has occurred in the UK, where the FOS is considered a member of the UK’s “regulatory family.” See: Financial Ombudsman Service and Financial Conduct Authority, [Call for Input: Modernizing the Redress System](#) (November 2024).

²⁶ The purpose of the current MOU is to “provide an oversight framework for the CSA and the OBSI to *cooperate and communicate constructively*.” [Amended and Restated Memorandum of Understanding Concerning the Oversight of the Ombudsman for Banking Services and Investments](#) (last viewed on August 21, 2025) at art. 2(2).

²⁷ Proposed Designation Order at s. 5.

²⁸ *Ibid* at s. 7. Similarly, Appendix B of the Proposed MOU sets out a detailed oversight review process pursuant that allows provincial securities regulators to conduct periodic reviews of the OBSI to evaluate its processes and compliance with the Proposed Designation Order.

²⁹ Proposed Designation Order at s. 14(3) and (11).

³⁰ *Ibid* at s. 15(9) and (10).

³¹ *Ibid* at s. 15(8)(d).

No Procedural Safeguards

The Proposed Framework does not guarantee any level of procedural fairness to any party. Rather, the Proposed Framework contemplates that decisionmakers will use an “essential processes test” which provides decisionmakers with unfettered discretion to choose the processes that are needed to reach an “efficient, quick and understandable” result in each case. This ambiguous test is vulnerable to inconsistent processes and outcomes, which does not serve the interests of investors, firms, or their representatives.

A mandatory and binding adjudicative body cannot be created without corresponding procedural rights including the right to an oral hearing, the right to cross examine opposing witnesses, and the right of appeal to a court.³² The satisfaction of these basic tenants of fairness may impact the timelines and informal nature of the OBSI process, but the solution to this reality is not to forge ahead with the Proposed Framework and disregard fundamental procedural rights.

This is not a novel observation, having been made as early as 1998 in the report of the Task Force on the Future of the Canadian Financial Services Sector, which concluded that it was not necessary or desirable to provide the Canadian Banking Ombudsman with binding decision making powers.³³ That report noted that the disadvantage of a binding system is that it necessitates a formal and adversarial process with procedural rights, which can slow the proceedings, deter complainants, and restore the power imbalance that the OBSI’s redress system was intended to eliminate in the first place.³⁴

Similarly, in 2001 the Ombudsman and Chief Executive Officer of the Canadian Banking Ombudsman, Michael Lauber, testified before the Standing Committee on Finance.³⁵ Referring to the UK’s experience in adopting binding decision making power Mr. Laubner stated:

“[...] They've taken what should be an informal, fairly quick ombudsman system and they've turned it into a mini court. That's one of the risks of having binding powers. The same thing could happen here, and we have to be very careful about that. It's not in anybody's interest to do that. You'll just turn it into a court, and that's no advantage. We've got a perfectly good court system if you want to go to court.”³⁶

Mr. Lauber’s comments remain true today. It is not in anyone’s interest to jeopardize the speed and other beneficial qualities of OBSI’s recommendation based system. At the same time, it is certainly not in anyone’s interest to create an adjudicative body that has the powers of a court but does not provide complainants or respondents with appropriate safeguards to protect procedural fairness. This would not promote access to justice for investors or responding firms.

³² The CSA has relied on Ireland’s Financial Services and Pension Ombudsman but parties to those proceedings have a right to request an oral hearing and a right of appeal to the High Court of Ireland. [Financial Services and Pensions Ombudsman Act 2017](#), s. 64.

³³ Task Force on the Future of the Canadian Financial Services Sector, [Report of the Task Force: Change, Challenge, and Opportunity](#) (1998).

³⁴ *Ibid* at pp. 139-140.

³⁵ “Bill C-8, An Act to Establish the Financial Consumer Agency of Canada”, [Consideration in Committee, Standing Committee on Finance](#) (March 15, 2001) at 1150.

³⁶ *Ibid*.

V. RECOMMENDATIONS

The current OBSI system has resolved thousands of complaints without binding powers. There is no credible justification for the Proposed Framework, which is unsupported by data or substantive analysis, is unconstitutional, and will have negative impacts on the OBSI, firms, representatives, and investors. To support the important goal of providing investors with a fair and efficient system of redress, efforts should be made to refine the OBSI's current system in a manner that is proportionate to its actual deficiencies.

The OBSI's data clearly demonstrates that refusals and low settlements are exceedingly rare. Those marginal cases could be effectively addressed through minimally intrusive reforms to the OBSI. Rather than fundamentally altering the OBSI's structure at great risk to investors and firms alike, low settlements could be eliminated through the following efforts:

1. **Enhancing the OBSI's Name and Shame Powers:** The OBSI's existing Terms of Reference provide that if a firm *refuses* an OBSI recommendation, the OBSI must disclose the refusal, the name of the participating firm, and the particulars of the complaint/recommendation to the public and the participating firm's regulators.³⁷ However, the OBSI is not required to report "low settlements" despite the fact that this could be interpreted as a technical "refusal" of an OBSI recommendation. Given that the OBSI's name and shame system has virtually eliminated the occurrence of refusals, this system could be similarly applied to 'low settlements' within clear, specified parameters. This recommendation was included in the OBSI's 2021 Evaluation.³⁸
2. **Introducing External Mediation to OBSI Process:** The OBSI's processes would be improved through the introduction of external mediation. This form of alternate dispute relation is already in use by the Autorité des Marchés Financiers, the Ontario Securities Commission, and the Canadian Investment Regulatory Organization ("**CIRO**"). An external mediation service would provide independent, impartial, and specialized expertise and thereby enhance the legitimacy of the OBSI's process. This alternative mechanism could help to avoid and/or resolve those rare cases that result in refusals and low settlements. This would be consistent with s. 13.16(4) of National Instrument 31-103, which requires registered firms to ensure that an independent dispute resolution *or mediation* service is available to clients.³⁹

It will be deeply concerning if the Proposed Framework proceeds notwithstanding its significant deficiencies. In those circumstances, the Proposed Framework must be amended to reflect core fairness attributes, include external mediation services, and integrate securities tribunals and CIRO's Arbitration Program into the OBSI process.⁴⁰

Respectfully,

Canadian Forum for Financial Markets

³⁷ Ombudsman for Banking Services and Investments, [Terms of Reference](#) (June 16, 2022), at s. 13.8.

³⁸ OBSI's 2021 Evaluation, *supra* at p. 34.

³⁹ National Instrument 31-103, [Registration Requirements, Exemptions and Ongoing Registration Obligations](#).

⁴⁰ These recommendations are discussed in further detail in the CFFiM's February 2024 Response Letter, *supra* at pp. 10-12.

SCHEDULE "A" - RESPONSE TO CONSULTATION QUESTIONS

Consultation Question No. 1 *Is \$75,000 an appropriate threshold amount to require OBSI to appoint an external decision maker or a panel of external decision makers at stage 2?*

\$75,000 is an appropriate threshold to integrate mediation, CIRO's Arbitration Program and Commission Tribunals.

Consultation Question No. 2 *Does setting a monetary threshold for the requirement to appoint an external decision maker at stage 2 impact the accessibility of the proposed framework for investors?*

This issue does not impact accessibility.

Consultation Question No. 3: *What would be potential advantages and disadvantages of permitting OBSI to appoint senior OBSI staff not involved in the stage 1 process to a panel conducting the stage 2 process in cases that meet or exceed the proposed monetary threshold, if the majority of the panel is comprised of external decision makers?*

The basis of this question is unclear but implies that the CSA is considering the option of appointing senior OBSI staff to "external" decision making panels. This proposal is counterintuitive to the goal of creating separations between OBSI staff at Stage 1 and those in charge of reviewing OBSI decisions at Stage 2.

Consultation Question No. 4: *Does the oversight framework strike the appropriate balance between ensuring OBSI's accountability and maintaining OBSI's organizational and decision-making independence?*

No. Please see out above comments with respect to the negative impact of the Proposed Designation Order and Proposed MOU on OBSI's institutional independence.

Consultation Question No. 5 a; *What would the impact be of maintaining OBSI's current six-year limitation period?*

It would be fundamentally unjust for the CSA to create a six-year OBSI claims limit that serves to artificially extend the basic two-year limitation period for civil claims in provinces (Ontario, Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Saskatchewan, Prince Edward Island, Yukon, Northwest Territories, Nunavut) with two year limitation period.⁴¹ This is especially problematic given that the Proposed Framework contemplates that successful parties can apply for a court order to enforce an OBSI decision. The Proposed Framework cannot include the use of the court to secure orders of claims that are outside the 2-year statutory limitation period governing claims before those provincial courts.

⁴¹ The FOS' time limits are broadly similar to the limits in the UK *Limitation Act* for negligence and breach of contract claims.