

June 2, 2011

by e-mail to: Flaherty.J@parl.gc.ca

The Honourable James Flaherty
Minister of Finance
Ottawa, ON

Dear Sir;

Almost a decade ago the Government decided that Canada needed a national ombudsman to help victims of financial industry fraud and wrongdoing. The investment industry was quick to propose the conversion of the Canadian Banking Ombudsman into a national Ombudsman for Banking Services and Investments (OBSI).

Although we believe a Government legislated ombudsman would better serve the public, OBSI is in many cases the only option available for aggrieved investors to gain some measure of restitution, and it is better to have a single source for investors disputes.

Now the industry is pressuring the regulators to relax the rules requiring SRO member firms to participate in OBSI. This would not be in the public interest. There can be little doubt that other entities employed by the industry would be less likely to serve the public well.

SIPA continues to recommend that Government establish by legislation a national financial services ombudsman with the power to investigate and order restitution when fraud or wrongdoing is apparent. At the same time Government should enact legislation that holds the industry accountable to a fiduciary standard.

Most Canadians believe their interests are well protected and that their "financial advisor" has a fiduciary duty to them. After all the "Advisor" most often controls their savings and investments that effect their retirement security. There will be even greater impact on Canadians' retirement security with the trend from defined benefit pension plans to defined contribution plans.

FAIR Canada supports continued mandatory OBSI participation for IIROC and MFDA member firms and urges securities regulators to protect investors by resisting the attempt to dismantle OBSI. FAIR Canada has made a detailed submission that should be considered by Government.

SIPA believes that the Government should act to ensure that all Canadians are entitled to fair and just treatment with regard to their efforts to save for their retirement security. To allow the investment industry to dictate how the regulators act or how an Ombudsman should treat victims of the investment industry is inappropriate and unacceptable.

Theresa Tedesco has been exposing the industry conflict with OBSI in the Financial Post with a series of articles and writes:



"Consumer groups say they'll be fighting to ensure IIROC and MFDA don't waiver in their support for OBSI. In the end, they'd like Parliament to create an independent statutory agency similar to the U.K.'s Financial Ombudsman Service."

It is unrealistic to expect an industry created or sponsored organization to be truly objective in dealing with disputes between small investors and industry.

In Quebec a solution has evolved with one regulator for financial services that covers banks, insurance companies, dealers and fund companies. The Authority is also one source for investors with a complaint, and the AMF has the power to investigate and pay restitution when appropriate. SIPA has previously recommended the Quebec regulatory model as the basis for a national financial services regulator.

A national securities regulator based on TROC provincial regulators with their dependence on SROs will not provide much in the way of improved investor protection. Investigative journalists like Theresa Tedesco and CTV W5 are helping to raise awareness of how the regulators are failing to protect investors.

Its time for Government to act and introduce legislation to deal with these issues in a meaningful way. An independent statutory agency similar to the U.K.'s Financial Ombudsman Service would help to provide Canadians with more hope for financial and retirement security.

Yours truly

Stan I. Buell, P.Eng.
President

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