

Attention: Mr. L. Morisset, Chair, CSA

**Request for action- undermining of CSA 90 day rule by internal "Ombudsman "**

Dear Mr Morisset

The issue is simple. The CSA fully supported the IIROC and MFDA complaint handling rule requirement for firms to respond to client complaints within 90 days. IIROC's and the MFDA rationale for this rule change was to address dealers' deliberate delays in complaint response , a war of attrition that discouraged clients from pursuing their complaints . Now we find bank and insurer owned dealers are using corporate internal "Ombudsman " to divert complainants from OBSI using their own brochures and oral prompting to encourage internal " Ombudsman "usage .

This two stage complaint process subverts and undermines the intent of the CSA 90 day response time rule. Behavioural research has shown that the more steps and extended duration in a complaint process, the greater the chance the complainant will cease pursuit of the complaint, notwithstanding its validity.

While complainant use of this "Ombudsman" is technically voluntary , it is based upon uninformed consent. Complainants are not aware that internal "Ombudsman" are not true independent ombudsman as the term Ombudsman is commonly understood. People confuse such entities as equivalent to OBSI, a CSA regulated Ombudsman service imposed by NI31-103.. Complainants know nothing of the governance, quality assurance or user satisfaction statistics because the information is not publicly available. Such entities also refuse to disclose any compensation conflicts ( e.g. Stock options, profit sharing) they have. Further , such entities do not inform investors that the statute of limitation clock will continue running and that they are using up valuable calendar time re the 180 day requirement for filing a complaint with OBSI. And finally, despite repeated requests, these entities , unlike OBSI, will not publicly disclose their methodology for assessing complaints or their compensation models. Opaqueness is the hallmark of their operations.

Such entities rightfully assert that they are not regulated by the CSA or IIROC which in effect means they are not regulated at all.

Once this entity rejects a client claim against an affiliated dealer a second time, many investors lose their will to pursue the complaint with independent OBSI. This was never the outcome desired by the CSA in setting the 90 day rule. In fact, it is the exact opposite of the intended outcome.

In order to prevent this undermining of CSA intent we recommend the following actions for your consideration:

- 1.The CSA ban the use of internal "Ombudsman" as has been done in other jurisdictions.
2. Failing that , use moral suasion with the banks and insurers to (1) have them agree to a limitation clock pause (2) agree to a 90 day cycle time and (3) have them provide the necessary disclosures so that informed complainant consent is possible.
3. Issue a CSA Investor ALERT citing the positive benefits of using OBSI, it's availability within 90 days of filing a complaint and the issues/risks associated with using internal "Ombudsman".
4. Revise all CSA member, IIROC and MFDA complaint brochures and rules to address and emphasize this critical issue .
5. Beef up the CSA website regarding the availability and benefits of using CSA- approved OBSI. Stress access available within 90 days of dealer response ,the stopping of the limitation clock, published 180 day target cycle time, transparency , independence, strong publicly disclosed governance and strict adherence to the fairness doctrine. Provide a direct link to OBSI website.
6. Promote use of the OBSI public interest mandate whenever appropriate.

We believe taking these actions will improve investor protection, the central mandate of the CSA.

Your earliest response would be greatly appreciated.

Respectfully,  
Ken Kivenko P.Eng.

President, Kenmar Associates