CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Notice and Request for Comment

Registered Firm Requirements Pertaining to an Independent Dispute Resolution Service

Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

Proposed Changes to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

November 30, 2023

1. Introduction

The Canadian Securities Administrators (**CSA** or **we**) are publishing for a **90-day comment period expiring February 28, 2024,** proposed amendments to certain complaint handling provisions of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), as well as proposed changes to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**31-103CP**).

The proposed amendments to NI 31-103 are referred to as the **proposed rule amendments** and the proposed changes to 31-103CP are referred to as the **proposed CP changes**.

The proposed rule amendments and proposed CP changes would form part of a new regulatory framework (the **proposed framework**) under which an independent dispute resolution service (**IDRS**) that is a not-for-profit entity and which has been designated or recognized by CSA jurisdictions (the **identified ombudservice**) would have the authority to issue binding final decisions.

The British Columbia Securities Commission (**BCSC**) supports the outcomes intended by this project, but is not participating in the proposal for comment of the rule amendments or proposed CP changes. British Columbia is considering legislative changes that may achieve the same outcomes as those intended by the proposed framework. The BCSC is interested in feedback on the proposed framework and will take comments into consideration.

In Québec, the Autorité des marchés financiers (**AMF**) provides, as per its governing legislation, conciliation and mediation services to consumers of financial products and services, including retail investors. The AMF is participating in the CSA consultation by proposing to maintain the exemption applicable to firms registered in Québec regarding the dispute resolution services requirements under NI 31-103. In this Notice, all references to outcomes sought by the CSA are therefore made by CSA members excluding Québec.

To provide context for the proposed rule amendments and to ensure meaningful participation in this consultation and in the further development and refinement of the proposed framework, this Notice also describes potential key structural elements of a proposed framework, the CSA's rationale for proposing these elements, and questions and matters for consideration where we encourage specific feedback to inform our continued work. We also welcome general comments on all components of this publication.

Currently, NI 31-103 provides for the Ombudsman for Banking Services and Investments (**OBSI**) as an independent service that resolves disputes, but OBSI does not have authority to make binding decisions. If implemented, the proposed rule amendments would modify the complaint handling process and require that firms (as defined below) comply with a final decision of the identified ombudservice.

The proposed framework is informed by the CSA's experience overseeing OBSI in its current form, as well as international best practices. If the proposed framework is implemented, we anticipate that OBSI would be the IDRS considered for designation or recognition by securities regulatory authorities.

Implementing a binding investment ombudservice regime in Canada would improve confidence in our markets and provide retail clients who are dissatisfied with their firm's response to a complaint and who take their dispute to OBSI for resolution (each, a **complainant**) with a fully effective system of redress that is final, fair and accessible. For example, internationally, a number of financial ombudservices that may be considered OBSI's peers have the authority to issue binding decisions.

In Canada, while most retail clients' complaints are resolved by firms, the CSA has observed historic refusals to pay complainants at all and patterns of settling disputes for less than OBSI recommends. This can have significant impacts on complainants and may discourage others from taking their case to OBSI. Making OBSI recommendations binding could improve investor protection and promote increased fairness for retail clients. In addition to impacting clients, these historically observed patterns and dynamics may also be inefficient for firms given that OBSI's services do not necessarily resolve a dispute, which potentially prolongs complaint resolution processes and consumes more resources to bring finality to them.

In developing the proposed framework, the CSA was also informed by the demonstrated fairness and efficiency of dispute resolution services currently available to parties through OBSI as an alternative to litigation, which can be complicated, expensive, and stressful for all parties. The CSA considered reports and consultations that considered the benefits of, and recommended that OBSI be granted binding authority, including those of the independent evaluators of OBSI and Ontario's Capital Markets Modernization Taskforce. The CSA also consulted OBSI and was informed by statements of regulatory priorities in CSA jurisdictions.

The CSA recognizes the importance of having an efficient system that resolves complaints fairly and effectively without creating undue burden for either party to a dispute. To promote a high degree of confidence for all parties using the dispute resolution services of an identified ombudservice, the proposed framework would incorporate OBSI's existing investigation and

recommendation processes while adding a subsequent optional review stage, the outcome of which is a final decision that binds firms and, in particular circumstances, complainants.

Legislative amendments in CSA jurisdictions will be required to enable the proposed framework. Accordingly, some CSA jurisdictions have suggested amendments to local statutes for consideration by their government. Any amendments to local acts would be proposed by governments. Proposed legislative amendments would only become law in a CSA jurisdiction if they were proclaimed and in force in that jurisdiction. Nothing in this Notice or the decision to publish the Notice should be considered as an indication of whether such legislative amendments will be made in any jurisdiction.

CSA jurisdictions other than British Columbia are issuing this Notice to solicit comments on the proposed rule amendments and the proposed CP changes that are part of the proposed framework. Although the BCSC is not publishing the proposed rule amendments and the proposed CP changes for comment, the BCSC is interested in the views expressed.

The text of the proposed rule amendments and the proposed CP changes are reflected in Annex B and Annex C of this Notice and is also available on the websites of certain CSA jurisdictions, including:

lautorite.qc.ca
www.asc.ca
https://nssc.novascotia.ca
https://fcnb.ca
www.osc.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

2. Substance and Purpose

Currently, Part 13, Division 5 of NI 31-103 sets out requirements that apply to a registered firm, except an investment fund manager acting in that capacity[1] (each, a **firm**), for handling and responding to complaints by retail clients, as well as requirements regarding making an independent dispute resolution or mediation service available to a retail client.[2]

If implemented, the proposed rule amendments would impose new requirements on firms in respect of a not-for-profit IDRS that has been designated or recognized by an order of the securities regulatory authority (each, a **harmonized order**). Harmonized orders would make the not-for-profit IDRS the identified ombudservice authorized to make binding final decisions, the services of which firms would be required to make available to their retail clients free of charge.

[1] See subsection 13.14 (1) of NI 31-103, "This Division does not apply to an investment fund manager in respect of its activities as an investment fund manager."
[2] Please note that, in Québec, pursuant to section 13.14 of NI 31-103, a registered firm is deemed to comply with Part 13, Division 5 of NI 31-103 if it complies with sections 168.1.1 to 168.1.4 of the Securities Act (RSQ, chapter V-1.1). The requirement to make available an independent dispute resolution or mediation service also does not apply in Québec.

Recognizing the impact binding decisions would have on all parties, the proposed framework contemplates that an identified ombudservice would have an initial investigation and recommendation stage based on OBSI's current practice. Additionally, the proposed framework contemplates an internal review stage where firms and complainants may raise specific concerns regarding the identified ombudservice's recommendation. In order to ensure that efficiency and proportionality are preserved, the internal review stage would require that the identified ombudservice use only procedures proportionate to the dispute in reviewing a recommendation. Once the identified ombudservice issues its final decision following the internal review stage, the final decision would be binding on a firm in all circumstances and would be binding on a complainant if the complainant objected to the recommendation and thus triggered the review. Implementing the proposed framework would enhance the accessibility and efficiency of dispute resolution through the identified ombudservice, provide fairness for both firms and complainants, and enhance investor protection and confidence in the investment services sector.

The proposed rule amendments would be necessary to implement key potential structural elements of the proposed framework in the jurisdictions publishing them for comment. The new provisions would require firms to, among other things, comply with a final decision of the identified ombudservice.

To reduce the risk of confusing the dispute resolution services of the identified ombudservice with a firm's internal complaint handling processes, the proposed rule amendments would also prohibit firms from using certain terminology for internal or affiliated services that implies independence, such as the title "ombudsman" or "ombudservice". This proposed prohibition on certain terminology would not prevent firms from offering complaint handling services or processes; it is intended to underscore the policy rationale of improving investor redress through the identified ombudservice.

The proposed framework would more closely reflect international best practices for financial dispute resolution services, including a two-stage process and binding decisions.

3. Background

a. Binding authority and international financial ombudservices

Financial ombudservices that provide dispute resolution services operate in many jurisdictions globally. While some ombudservices make only non-binding recommendations, some financial ombudservices – including examples in the United Kingdom,[3] Australia,[4] and Ireland,[5] jurisdictions which have similar legal systems to Canada's – have the authority to issue binding final decisions. In respect of the current dispute resolution process available through OBSI, Canada has not kept pace with these jurisdictions in implementing a binding ombudservice regime. This

[3] Financial Ombudsman Service (UK), How we make decisions, "Final Binding Decisions", accessed at <https://www.financial-ombudsman.org.uk/who-we-are/make-decisions>.
[4] Australian Financial Complaints Authority, What process we follow, "Determination (a binding decision)", accessed at < https://www.afca.org.au/what-to-expect/the-process-we-follow>.
[5] Financial Services and Pensions Ombudsman, How we deal with your complaint, "Formal complaint resolution", accessed at < https://www.fspo.ie/our-services/>.

gap received international comment in the most recent International Monetary Fund (**IMF**) Financial Sector Assessment Program (**FSAP**) review of Canada.[6]

In addition to the IMF's international critique, the lack of binding authority has been identified as a concern domestically.[7] Three independent evaluations of OBSI, required by the CSA as part of the current oversight regime, have identified the lack of binding authority as a significant design flaw in Canada's investment dispute resolution system.[8]

The financial ombudservices of the United Kingdom, Australia and Ireland operate within regulatory frameworks which emphasize fairness and flexibility, and which share many elements with the proposed framework, including:

- a single ombudservice either created by legislation or recognized by a regulator
- oversight by financial service regulatory authorities
- no obligation for a complainant to use the ombudservice and preserving the complainant's ability to pursue their case in court instead
- the ombudservice's standard of decision-making considers what is fair in all the circumstances between the complainant and financial services provider, having regard to relevant codes and good industry practices
- the ombudservice has latitude in determining its decision-making procedures, with a focus on procedural fairness, proportionality and efficiency
- a "first stage" investigator recommending compensation where facilitated settlement between the parties cannot be reached, followed by a binding decision made by a separate, more senior internal decision-maker if either party rejects the case handler's recommendation and elects to pursue a "second stage" binding process
- the ability to award monetary and non-monetary remedies
- enforceability of the ombudservice's final decision

Regarding which parties are bound by a final decision, Ireland's framework takes a different approach from the frameworks in the United Kingdom and in Australia. In Ireland, both the firm and the complainant are bound, whereas in the United Kingdom and Australia, only the firm is bound. However, under Ireland's framework, an appeal of a decision to the High Court is permitted, whereas no appeal is permitted under the frameworks in either the United Kingdom or Australia.

Additional examples of financial ombudservices with binding decision-making authority include:

- Insurance and Financial Services Ombudsman Scheme (New Zealand)[9]

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[6] *Canada: Financial System Stability Assessment IMF Country Report No. 19/177*, June 2019 by the International Monetary Fund, at p 30.

[7] *See, for example*, Capital Markets Modernization Taskforce, *Modernizing Ontario's Capital Markets: Capital Markets Modernization Taskforce Final Report*, online: <Ontario.ca>, (January 2021) [https://www.ontario.ca/document/capital-markets-modernization-taskforce-final-report-january-2021].

[8] *See, for example,* Poonam Puri and Dina Milivovejic, *Independent Evaluation of the Canadian Ombudsman for Banking Services and Investments' (OBSI) Investment Mandate* (2022) at p 9.

[9] *See* www.ifso.nz

- Financial Ombudsman Institution (Taiwan)[10]
- Financial Industry Disputes Resolution Centre (FIDeC) (Singapore)[11]
- Dutch Institute for Financial Disputes (Kifid) (Netherlands)[12]
- Office of the Ombud for Financial Services Providers (South Africa)[13]
- The Office of the Czech Financial Arbitrator (Czech Republic)[14]

Recently, Spain announced that it will create an independent administrative authority with the ability to make binding decisions, with the goal of strengthening the system of out-of-court settlement of complaints between institutions and customers of banking, securities and insurance products.[15]

b. Current investor redress through OBSI

OBSI is a federally incorporated not-for-profit organization that provides an independent service for resolving investment disputes between participating firms and their clients, at no cost to those clients and without the need for legal representation. OBSI's services are available to complainants who want an independent and impartial third party to resolve a dispute about whether their firm has treated them fairly.[16] Currently, firms in Canada (except in Québec) must, under subsection 13.16(6) of NI 31-103, "take reasonable steps to ensure that OBSI will be the independent dispute resolution or mediation service that is made available to a client".

In assessing complaints, OBSI applies a fairness standard whereby OBSI considers what would be fair to the parties in all the circumstances of a complaint.[17] In applying the fairness standard, OBSI "[takes] into account general principles of good financial services and business practice, law, regulatory policies and guidance, professional body standards and any relevant code of practice or conduct".[18]

In applying the fairness standard, OBSI uses an inquisitorial process or method whereby an investigator, in an independent and impartial role, takes an active part in investigating the facts of the case before making a recommendation about the outcome of the dispute (**inquisitorial approach**). Under the inquisitorial approach, an OBSI investigator gathers evidence from the parties, identifies core issues, asks the parties follow-up questions, and makes a recommendation on the issues based on their findings. The inquisitorial approach is distinct from an adversarial process where each party presents their own facts and positions on issues. Overall, the adversarial

[10] *See* www.foi.org.tw
[11] *See* www.fidrec.com.sg
[12] *See* www.kifid.nl
[13] *See* www.faisombud.co.za
[14] *See* www.finarbitr.cz
[15] Reuters, "Spain to launch financial consumers' protection authority", online: <reuters.com>, (April 5, 2022) [https://www.reuters.com/world/europe/spain-launch-financial-consumers-protection-authority-2022-04-05/].
[16] Retail clients who are concerned that a firm has breached securities regulations or requirements may complain to the securities regulatory authority, or if the firm is a member, to CIRO.
[17] *See* OBSI Terms of Reference at section 13.2, "OBSI will make a recommendation or reject a complaint with reference to what is, in OBSI's opinion, fair in all the circumstances to the Complainant and the Participating Firm".
[18] *Ibid*, s. 8.1(a).

process can be difficult for parties to navigate without a lawyer and specific industry expertise. In contrast, the inquisitorial approach allows parties to interact with OBSI without a lawyer and can provide a timely resolution for both firms and complainants.

The inquisitorial approach gives OBSI procedural flexibility to address the potential power imbalance between complainants and firms when determining the issues in dispute and gathering information. This approach also acknowledges that firms often have greater resources and specialized knowledge in relation to the substance of a complaint. OBSI's inquisitorial approach is crucial to making its services accessible to retail clients because it enables OBSI to apply only the processes that are necessary and proportionate to each complaint. OBSI's ability to control its own procedures enables OBSI to provide fair access to its services, maintain efficiency for all parties to a dispute, and minimize the chances that complainants will abandon the dispute resolution process due to complexity.

Currently, when OBSI investigates a complaint and determines that it would be fair for the firm to provide monetary compensation to a complainant, OBSI typically first attempts to facilitate a settlement between the complainant and the firm. If the parties do not arrive at a settlement, OBSI issues a non-binding recommendation for an amount up to the monetary compensation limit of $350,000. In cases where OBSI recommends compensation, OBSI has no formal power or process to require a firm to pay the complainant.

Since firms are currently not required to comply with an OBSI recommendation, to encourage compliance, OBSI employs a 'name and shame' system under which OBSI publishes the names of only those firms which refuse to follow its recommendations in their entirety. However, historically, publication has not included the names of firms that settle a complaint at an amount lower than what OBSI recommended. Consequently, if a firm disagrees with an OBSI recommendation and the complainant accepts a settlement offer lower than OBSI's recommendation, then the firm's name will not be made public. As OBSI recommendations are not binding on a firm, complainants may feel compelled to accept a lower settlement offer or risk receiving nothing. While commencing a civil proceeding to seek full compensation is another option for the complainant, such proceedings can be time-consuming, expensive, and stressful.

The concerns about the current "name and shame" system were highlighted in both the 2016[19] and 2021[20] independent evaluations of OBSI's investment operations and processes. The evaluations criticized the current system for creating a power imbalance in favour of registered firms, with the result that firms can negotiate down the compensation paid to complainants.[21] Likewise, each of the 2011, 2016 and 2021 independent evaluations recommended that OBSI be given binding authority.[22] These recommendations were accompanied by favourable findings regarding OBSI's accessible investigative processes and OBSI's rates of case retention (as described below).

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[19] Deborah Battell and Nikki Pender, *Independent Evaluation of the Canadian Ombudsman for Banking Services and Investments' (OBSI) Investment Mandate* (2016) at p 1.
[20] Puri and Milivojevic, *supra*, at p 9.
[21] *Ibid*, for example at p 34.
[22] Battell and Pender, *supra* at p 7; Puri and Milivojevic, *supra* at p 9; Navigator Company, *Ombudsman for Banking Services and Investments, 2011 Independent Review* (2011), at p 9.

c. Patterns Observed by the CSA

The CSA's development of the proposed framework has been informed by a variety of concerns and observed patterns. As the independent evaluators of OBSI's investment operations and processes observed in their 2016 and 2021 reviews, the CSA has also recognized that low settlements may erode investor confidence in the fairness and effectiveness of the dispute resolution process.[23] Historically, patterns of refusals may have had a similar impact.

The OBSI process for dispute resolution provides efficiency for firms and a helpful service for complainants, as shown by strong case retention rates.[24]

In developing the proposed framework, the CSA has sought to balance the need to address observed patterns, enhance fairness and improve efficiency for both firms and complainants that engage in the dispute resolution services of OBSI.

i. Low settlements

Since OBSI's recommendations are currently not binding, CSA staff have observed that some firms offer a settlement amount that is less than the amount of compensation recommended by OBSI. The complainant's main alternatives to OBSI are initiating a civil proceeding against the firm or abandoning the complaint. Given limited alternatives available to complainants, once OBSI makes a recommendation, complainants may feel they must accept a settlement offer that is below OBSI's recommended amount or risk receiving nothing. This dynamic may dissuade some complainants from using OBSI's non-binding process.

Low settlements and settlement refusals may erode retail client confidence in the fairness and effectiveness of OBSI's dispute resolution services, the CSA's approach to independent dispute resolution generally, and in addition may contribute to reluctance to engage with firms or to invest in financial markets using the services of firms if there is no assurance of an effective dispute resolution service. Addressing the non-binding nature of OBSI recommendations is an opportunity to promote increased confidence in Canada's investment services sector and drive efficiencies for both parties to a financial services dispute.

Overall, since OBSI's fiscal year 2018, retail clients received approximately $1.6 million less than what OBSI recommended at the conclusion of OBSI's investigation.[25] The CSA has observed that the percentage of cases that settle below OBSI's recommended amount (**low settlement cases**) increases as the value of the recommended monetary compensation increases.

Table 1 below shows case data provided by OBSI, including the percentage of cases where retail clients settled below OBSI's recommended amount from 2018-2022.

[23] CSA Staff Notice 31-362 *OBSI Joint Regulators Committee Annual Report for 2021* (November 3, 2022), at p 5.
[24] See case retention rate discussion at page 9 of this Notice.
[25] CSA Staff Notice 31-364 *OBSI Joint Regulators Committee Annual Report for 2022* (October 2023), at p 4.

Table 1 – 2018 -2022 Investment Cases Settled Below OBSI's Recommended Amount

OBSI Recommended Amount	% of Cases settled below OBSI's recommended amount	# of Cases Closed with monetary compensation recommendations
$1 to $9,999	1%	384
$10,000 to $49,999	13%	113
$50,000 to $99,999	46%	26
$100,000 to $199,999	43%	14
$200,000 to $350,000	67%	9

While compliance with OBSI recommendations is generally strong where the recommended monetary compensation is below $50,000, the percentage of low settlements increases where the recommended compensation exceeds $50,000. In terms of the dollar amount, where OBSI made a recommendation for compensation of $50,000 or less, the complainant received an average of $8,373 less than what OBSI recommended.[26] Where OBSI made a recommendation for compensation above $50,000, the complainant received an average of $59,373 less than what OBSI recommended.[27] On average, low settlement cases settled for 60% of OBSI's recommended amount of compensation.[28] This observed pattern can be problematic, given that complainants who have received a greater monetary compensation recommendation are likely to be those who have suffered greater harm.

Providing an identified ombudservice with binding authority would give complainants more certainty that they would receive fair redress that reflects the harm suffered, if the identified ombudservice determines that compensation is warranted. In turn, this may also improve investor confidence in OBSI, as the potential identified ombudservice, prompting more retail clients to take their disputes to OBSI.

ii. Case retention

Case retention at OBSI – that is, whether a complainant engages in OBSI's processes until OBSI concludes its investigation and determines whether to recommend compensation – provides some guidance as to how parties, particularly complainants given that they have the power to withdraw or abandon their complaint before OBSI, view the OBSI dispute resolution process.

Table 2 below set outs OBSI's case retention from its fiscal years 2018 – 2022.

[26] *Ibid.*
[27] *Ibid.*
[28] *Ibid*.

Table 2 - 2018 to 2022 Case Data - Investments Only

OBSI Fiscal Year	# of Cases Closed by OBSI	# of Closed Cases Withdrawn or Abandoned	% of Closed Cases Withdrawn or Abandoned
2018	327	21	6%
2019	387	6	2%
2020	405	11	3%
2021	567	9	2%
2022	444	6	1%

The data above shows that overall, OBSI has low case withdrawal rates, and suggests that the current process used by OBSI in considering a complaint is one that complainants may generally find to be helpful or accessible. It appears that complainants choose to remain engaged instead of pursuing other forms of dispute resolution or abandoning their case. A complainant's willingness to have their complaint assessed by OBSI is likewise positive for firms as they will not have to delegate additional resources to defending legal proceedings. Given the general indicia that complainants are content with having their complaints investigated and resolved by OBSI, and the positive impact this also has for firms, the CSA is of the view that the inquisitorial approach currently used by OBSI should be maintained in the proposed framework.

d. Design of Proposed Framework – Improving Investor Redress

The proposed framework being developed by the CSA would be a binding authority regime that is intended to be fair, efficient, accessible for all parties, and ultimately to improve access to redress for retail clients. To achieve this, dispute resolution under the proposed framework would include enhanced procedures for both firms and complainants.

Under the proposed framework, a not-for-profit IDRS would be designated or recognized by securities regulatory authorities, making it the identified ombudservice. The identified ombudservice would be subject to coordinated oversight by CSA jurisdictions, including through harmonized orders that would include terms and conditions on the identified ombudservice. Harmonized orders governing the identified ombudservice, an enhanced CSA oversight program, and prior CSA approval of certain identified ombudservice procedures and documents, including changes to them, would apply. As discussed below, we anticipate that OBSI would be the identified ombudservice.

The CSA pursued its work informed by international comparators and multi-year patterns of firms' engagement with OBSI that raised concerns about investor protection and fairness for complainants. Our work to date in developing the proposed framework has also been informed by the demonstrated efficiency of the dispute resolution mechanism currently available to parties through OBSI.

To address observed patterns and key concerns, the proposed framework would include binding authority for the identified ombudservice, while preserving OBSI's existing investigative processes. The proposed framework would achieve this by adding an optional review stage with a flexible and proportionate process applied by the identified ombudservice in reaching a binding final decision that provides certainty and finality to the parties. The two stages used by the identified ombudservice – investigation and review – would enhance fairness and confidence for both parties to a complaint. In addition, the proportionate processes applied by the identified ombudservice under the proposed framework may help to preserve the firm's relationship with the complainant following resolution of the dispute, a prospect which may be less likely following recourse through litigation which is adversarial in nature.

4. Key Elements of the proposed framework

This part of the Notice describes key elements of the proposed framework, including dispute resolution through the services of the identified ombudservice, the regulatory regime required to implement the proposed framework, and CSA oversight.

a. Overview of Regulatory Regime

To create a regulatory regime that would implement the proposed framework, the proposed rule amendments would require the adoption of legislation in local jurisdictions. Below, we provide an overview of key elements of the overarching regulatory regime that would implement the proposed framework.

i. Legislation

Existing or new legislation in local jurisdictions that would be required to implement the proposed framework could include the following:

- Authorizing the securities regulatory authority to recognize or designate an IDRS (i.e., the identified ombudservice);
- Authorizing the securities regulatory authority to make decisions with respect to the manner in which an IDRS carries on business or any by-law, rule, regulation, policy, procedure, interpretation or practice of an IDRS;
- Authorizing the securities regulatory authority to make rules regarding a recognized or designated IDRS, including with respect to oversight and governance;
- Authorizing the securities regulatory authority to require firms to be a member of the identified ombudservice and to comply with binding final decisions of the identified ombudservice (discussed below);
- Authorizing the identified ombudservice to issue binding final decisions that include financial compensation;
- Establishing that either the identified ombudservice or a complainant may file a final decision of the identified ombudservice with the court, making the decision enforceable as if it were an order of the court;

- Setting out that the identified ombudservice must apply the fairness standard and proportionate processes (discussed below)

In addition, to support the identified ombudservice and its unique role as an efficient and fair dispute resolution service provider, it is contemplated that the identified ombudservice would be excluded from arbitration acts and if necessary, other legislation that sets out procedural requirements for tribunals. This would facilitate procedural and adjudicative flexibility for the identified ombudservice under CSA oversight, furthering its ability to act as an alternative to litigation as a dispute resolution service.

Nothing in this Notice or the decision to publish the Notice should be considered as an indication of whether such legislative amendments will be made in any jurisdiction.

ii. NI 31-103

The proposed rule amendments would include certain requirements, including that firms be members or maintain membership in the identified ombudservice, cooperate with the identified ombudservice in respect of its investigation and review of complaints by not withholding, destroying or concealing any information or documents, and comply with final decisions of the identified ombudservice.

In addition, to address the potential for retail investor confusion, the proposed rule amendments would prohibit the firm's use of certain terms when referring to their internal complaint handling procedures or to their internal complaint handling department or service (such as "ombudsman", "internal ombudservice" or a term that is substantially similar).

iii. 31-103CP

The proposed CP changes set out the CSA's interpretation of the requirements within the proposed rule amendments and provides guidance for complying with these requirements. This includes additional discussion of complaint handling with respect to complaints lodged with a firm verbally, as well as when OBSI may be notified about a complaint.

b. OBSI as the Potential Identified Ombudservice

Under the proposed framework, it is anticipated that OBSI would be considered for designation or recognition by CSA jurisdictions as the identified ombudservice under NI 31-103. The identified ombudservice would be subject to coordinated oversight by CSA jurisdictions, which the CSA continues to develop, and which is expected to reflect certain existing oversight regimes such as those in place for self-regulatory organizations (**SROs**), clearing agencies and exchanges. Oversight is anticipated to include purview over governance and organizational aspects of the identified ombudservice.

The identified ombudservice would continue to function as an alternative dispute resolution service, with its processes and binding decision power designed to address the potential power imbalances referenced above. Use of the identified ombudservice's dispute resolution services would remain optional for complainants.

The proposed rule amendments would require firms to be members of the identified ombudservice, cooperate with the identified ombudservice in the dispute resolution process, and to comply with the final decision of the identified ombudservice, or the recommendation once it has been deemed a final decision, which may require payment of monetary compensation or potentially the performance of certain specified corrective actions.

Consultation Question

1. The CSA contemplates that under the proposed framework, an IDRS would be authorized to issue binding decisions in circumstances where it is designated or recognized in a jurisdiction as the identified ombudservice. It is possible that some CSA jurisdictions may not designate or recognize OBSI as the identified ombudservice at the same time, resulting in the status quo (e.g., OBSI making non-binding recommendations only) applying in those jurisdictions until OBSI were designated or recognized as the identified ombudservice. If jurisdictions designate or recognize OBSI as the identified ombudservice at different times, what operational impacts, if any, would you anticipate from an IDRS being designated or recognized in some but not all jurisdictions? How can these impacts best be managed?

c. Investigation and Review of a Complaint Before the Identified Ombudservice

A flowchart of the dispute resolution process through the identified ombudservice under the proposed framework is included at Annex D.

The proposed framework contemplates that the identified ombudservice would preserve as much of the investigative processes currently used by OBSI as possible, the integrity and fairness of which has been reviewed and endorsed through multiple independent reviews, while adding a new binding decision stage.

The proposed framework contemplates that, within harmonized orders, the identified ombudservice would have two stages as part of its dispute resolution process:

- *Investigation and settlement or recommendation* (**investigation and recommendation stage**)
- *Review and decision* (**review and decision stage**)

The investigation and recommendation stage of an identified ombudservice would carry forward OBSI's current investigative processes, while the review and decision stage would be the new stage under which an identified ombudservice would issue binding final decisions. Adding the review and decision stage would preserve as much of OBSI's current inquisitorial approach as possible while equipping the identified ombudservice with appropriate expanded procedural tools in order to issue a binding final decision without adding undue burden to the parties.

i. The Investigation and Recommendation Stage

Under the proposed framework, the investigation and recommendation stage would commence when a retail client notifies the identified ombudservice of a complaint that was not resolved

through the firm's internal complaint handling processes, and which the complainant wishes the identified ombudservice to consider.

During this stage, the identified ombudservice would use the same inquisitorial approach currently used by OBSI to obtain relevant information to either facilitate a settlement between the parties in the course of preparing a recommendation or to make a recommendation to resolve the dispute. As is currently the case under OBSI's processes, the investigation and recommendation stage would be concerned with resolving a dispute fairly and addressing power imbalances which may exist between the parties because of potentially limited resources or lack of sophistication on the part of the complainant, as compared to the firm. In doing so, the identified ombudservice would act independently and impartially to gather and consider relevant information while applying the fairness standard.

The investigation and recommendation stage would result in a recommendation by the identified ombudservice. Following a recommendation, the firm and the complainant would both have the opportunity to object to the identified ombudservice's recommendation, in whole or in part, in which case the review and decision stage described below would begin.

A recommendation by the identified ombudservice would become binding on firms and deemed to be a final decision if neither the firm nor the complainant object to the recommendation within the time period specified by the identified ombudservice in its rules and the complainant has not withdrawn from the dispute resolution process either through commencing a separate legal proceeding or otherwise.[29]

ii. The Review and Decision Stage

Either the complainant or the firm could trigger the review and decision stage by submitting a written objection to the identified ombudservice regarding its recommendation.

During the review and decision stage, a senior decision-maker of the identified ombudservice who was not involved in the investigation and recommendation stage would consider the party's formal objection to the recommendation. The scope of the decision-maker's review would be limited to the specific objections raised by the parties and the decision-maker would apply the fairness standard. The decision-maker would not engage in facilitated settlement.

In conducting its review, the identified ombudservice would adopt a process that is proportionate to the complaint. The identified ombudservice would achieve a proportionate process by following a procedural threshold test under which the identified ombudservice would engage only in processes essential to achieving as efficient, quick, and understandable a process as possible in resolving disputes in a fair manner (the **essential process test**). We contemplate that the essential process test would be set out in legislative amendments in local jurisdictions. During the review and decision stage, the essential process test would enable the identified ombudservice to use processes that range from inquisitorial to adversarial, if they are essential to achieving a proportionate process for both parties to resolve a dispute fairly. The identified ombudservice would decide which procedural tools to apply in each review. In all scenarios, the identified

[29] The firm would not be required to comply with a recommendation while the recommendation is subject to a review.

ombudservice would apply processes that achieve procedural fairness for both the firm and the complainant and that do not create disproportionate burden on the parties. The use of procedural tools that are more commonly found within the adversarial system during the review and decision stage is anticipated to be infrequent and would be limited to circumstances that meet the essential process test.

Once the identified ombudservice has completed its review, it would issue a decision. If only the firm had objected to the outcome from the investigation and recommendation stage, the complainant would have an opportunity to reject the decision within a specified period. If the complainant does not reject the decision and has not otherwise withdrawn from the process in a manner authorized by the identified ombudservice, the decision would become final and binding on the parties. Parties may also be able to apply for judicial review of the decision, where available.

We anticipate that additional details regarding the processes of the identified ombudservice would be set out in either the identified ombudservice's governance documents or within harmonized orders – including in respect of when a recommendation is deemed to be a final decision as well as the circumstances in which a complainant would not be permitted to either abandon the dispute resolution process or commence litigation following the issuance of a final decision. We also anticipate that CSA member approval of those processes, and any changes to those processes as proposed by the identified ombudservice, would be required under the proposed legislative framework and harmonized orders.

We contemplate that the identified ombudservice would publish materials and communications to reflect its processes under the proposed framework, and to develop appropriate forms and notices to ensure that all participants in the dispute resolution process through the identified ombudservice understand the process and their rights and responsibilities.

iii. Final decisions of the identified ombudservice

A final decision of the identified ombudservice may require the firm to provide monetary compensation to a complainant or to take a specific type of corrective action, as appropriate in the circumstances. A complainant would be bound by the outcome of the review and decision stage, if they object to the identified ombudservice's recommendation. If only the firm objects to the recommendation and seeks a review, then the complainant could reject the dispute resolution process, including after they receive the decision, and instead pursue a civil proceeding against the firm regarding their complaint.

A characteristic in the proposed framework that distinguishes it from international financial ombudservices is that the complainant would always be bound by a final decision made by the identified ombudservice, where the complainant triggered the review and decision stage. In contrast, in both the United Kingdom and Australia the complainant is bound by a final decision of the ombudservice only where the complainant formally accepts it. In these jurisdictions, if the complainant does not accept the ombudservice's final decision, the complainant may still seek resolution in another forum (such as a court). The CSA is of the view that, to promote finality, efficiency and fairness to both parties, binding complainants where the complainant sought a final

decision of the identified ombudservice is an appropriate and balanced outcome and provides both parties to the dispute with a fair and final resolution of the matter.

The proposed framework contemplates that the maximum monetary compensation that could be awarded by the identified ombudservice would be $350,000, which is the current maximum monetary compensation that can be awarded by OBSI. Our view is that the maximum monetary compensation could be subject to review and increased in the future. The proposed framework also contemplates that the identified ombudservice may direct the firm to take specified corrective action, such as requiring a firm to return documents or to correct erroneous information where the firm's error was harmful to the complainant.

Additionally, once a final decision is rendered by the identified ombudservice at the conclusion of the review and decision stage, the complainant or the identified ombudservice would be able to file the identified ombudservice's decision with a superior court as an order of the court, making it enforceable.

Consultation Questions

2. The proposed rule amendments include a new provision requiring compliance with a final decision of the identified ombudservice. Under the proposed framework, we contemplate that both a recommendation or decision of the identified ombudservice could become a final decision that will be binding on the firm under certain circumstances. Specifically:

    a. With respect to a recommendation made by the identified ombudservice following the investigation and the recommendation stage, we contemplate the recommendation becoming a final decision where (i) a specified period of time has passed since the date of the recommendation, (ii) neither the firm nor the complainant has objected to the recommendation, and (iii) the complainant has not otherwise withdrawn from the process in a manner authorized by the identified ombudservice (the **deeming provision**). What are your general thoughts about the deeming provisions and the circumstances that trigger it? Please also comment on whether 30, 60, 90 days would be an appropriate length of time to be specified for a recommendation to be deemed a final decision under the deeming provision.

    b. With respect to the decision made by the identified ombudservice following the review and decision stage, we contemplate the decision becoming final where (i) a specified period of time has passed since the date of the decision (the **post-decision period**), and if the complainant did not trigger the review and decision stage, (ii) the complainant has not rejected the decision and has not otherwise withdrawn from the process in a manner authorized by the identified ombudservice. Please comment on the provision of this post-decision period and whether 30, 60 or 90 days would be the appropriate length for the post-decision period.

3. The proposed framework contemplates that complainants could not reject a decision of the identified ombudservice if they initiated the second-stage review of the recommendation by objecting to it. What are your views on this approach?

4. Please provide any comments on maintaining the compensation limit amount of $350,000.

iv. No statutory right of appeal

The proposed framework does not contemplate a statutory right of appeal to an external body, such as a securities tribunal or to a court. However, it does contemplate the availability of judicial review in appropriate circumstances.

In proposing no statutory appeal right, we carefully considered historic commentary on this point, including comments received from stakeholders which raised questions about how to ensure accountability in a scenario where OBSI is granted binding authority, suggesting that an appeal right may be helpful in this regard.

We consider that the availability of an appeal right to either a court or to a CSA member tribunal may undermine a principal policy goal of this project. Namely, a right of appeal may re-introduce a power imbalance as between a complainant and a firm, with firms likely being in a better-resourced position to pursue appeals from a final decision of the identified ombudservice. While appeals to an external body could provide an additional opportunity to be heard or to consider the procedures and concepts applied by an identified ombudservice, appeals have costs. Appeals would increase expense, delay and complexity for the parties. Since securities tribunals and courts use adversarial processes, appeals to them could, over time, move the identified ombudservice towards an adversarial process, negating the benefits of the inquisitorial approach highlighted above. While appeal through a CSA member tribunal is potentially less costly to appellants, complainants may be at a disadvantage to firms in determining on what grounds they are permitted to make an appeal and to navigating the overall system without the assistance of legal counsel.

It is our view that the introduction of the essential process test, along with robust CSA oversight of the identified ombudservice, would sufficiently address concerns relating to procedural fairness. Parties may, where available, pursue the option of judicial review.

The proposed framework also does not include any statutory privative clause to restrict or limit rights to judicial review. We consider that judicial review, where available,[30] together with the enhanced regulatory oversight regime the CSA is developing that would be applicable to the identified ombudservice, will ensure strong and efficient accountability over a decision-maker authorized to deliver binding decisions.

A judicial review takes another look at a decision or order made by an administrative body to ensure the decision or order is fair, reasonable, and lawful. The availability of judicial review is

[30] Common law rights and legislative provisions providing for judicial review by the superior courts may vary among Canadian jurisdictions.

anticipated to provide parties to a complaint with a venue in which to raise concerns about procedural fairness in respect of the identified ombudservice's decision-making processes. Judicial review would also permit parties to raise concerns with a superior court regarding the substance of a final decision issued by the identified ombudservice.

Because judicial review would not generally consider the case afresh but instead focus on procedural and substantive aspects at issue, we anticipate that judicial review will be an effective means for parties to raise concerns with the identified ombudservice's final decisions.

Ultimately, we anticipate that judicial review will be an additional means of ensuring fairness in the decision-making process.

Availability of judicial review will be determined by the superior court that receives an application for review.

Consultation Questions

5. The proposed framework does not contemplate an appeal of a final decision to either a securities tribunal, or a statutory right of appeal to the courts (although parties could still seek judicial review of a final decision). What impact, if any, do you think the absence of an appeal mechanism will have on the fairness and effectiveness of the framework for parties to a dispute?

6. Should the proposed framework include a statutory right of appeal to the courts or another alternative independent third-party procedure for disputes involving amounts above a certain monetary threshold (for example, above $100,000)? If so, please explain why.

d. CSA Oversight

The CSA considers appropriate and effective oversight of an IDRS that offers binding dispute resolution services to retail clients to be of paramount importance.

At this time, the CSA continues to develop an oversight regime for the identified ombudservice that would complement the proposed framework by balancing independence of the IDRS with a need for robust monitoring and response by securities regulatory authorities. We welcome comments in respect of an appropriate oversight regime for the identified ombudservice.

The CSA and OBSI entered into a Memorandum of Understanding (**MOU**) which provides a framework for oversight of and engagement with OBSI. Currently, the MOU sets out certain standards for OBSI, including those regarding governance, independence and standard of fairness, processes to perform functions on a timely and fair basis, fees and costs, resources, accessibility, systems and controls, core methodologies, information sharing, and transparency. The MOU also provides a framework for cooperation and communication between OBSI and the CSA and requires that OBSI undergo an independent evaluation at least once every five years.

We are of the view that a more comprehensive oversight regime should be developed for the

identified ombudservice under the proposed framework, since it would be authorized to issue binding final decisions. This enhanced oversight regime would apply to OBSI if it were designated or recognized as the identified ombudservice. Upon implementation of the proposed framework, the CSA anticipates that oversight of the identified ombudservice would be enhanced and broadly follow the approach for oversight of SROs, clearing agencies, and exchanges. For example, similar to SROs, statutory authority in some jurisdictions could authorize the securities regulatory authority to make decisions with respect to the manner in which an identified ombudservice carries on business or any by-law, rule, regulation, policy, procedure, interpretation or practice of an identified ombudservice.

As the CSA has done for SROs, CSA oversight of the identified ombudservice would include oversight through harmonized orders setting out the terms and conditions on the identified ombudservice's recognition or designation. At the highest level, recognition or designation as the identified ombudservice would include a public interest requirement. Additionally, the harmonized orders would likely include obligations and requirements pertaining to risk identification, organizational structure and governance, including appropriate expertise and representation, fees, capacity building, reporting, and public transparency through publication of anonymized reasons. CSA jurisdictions would have approval powers over the identified ombudservice's key materials, which may include the Terms of Reference, procedural rules and written guidance.

Operationally, CSA oversight of the identified ombudservice is anticipated to include co-ordinated compliance examinations and monitoring of the identified ombudservice's reporting under a new MOU among the CSA jurisdictions. In advance of implementation of the proposed framework, we will develop oversight practices tailored to the identified ombudservice.

Consultation Questions

7. Are there elements of oversight, whether mentioned in this Notice or not, that you consider to be of particular importance in ensuring the objectives of the proposed framework are met? If so, please explain your rationale.

8. Do you consider oversight, together with the other aspects of the proposed framework discussed in this Notice, to be sufficient to ensure that the identified ombudservice remains accountable?

5. Summary of the proposed rule amendments and the proposed CP changes

The proposed rule amendments and the proposed CP changes are important components of the proposed framework and as such, are necessary to implement the proposed framework.

We welcome comments on all aspects of the proposed rule amendments and the proposed CP changes, as well as the proposed framework.

a. Proposed Rule Amendments

The proposed rule amendments would amend the definition of "complaint" for the purposes of sections 13.16 and 13.16.1 of NI 31-103 in order to clarify that a complaint concerns an

"expression of dissatisfaction" that relates to a trading or advising activity of a firm or a representative of a firm.

The proposed rule amendments would require firms to make available the identified ombudservice for purposes of the requirement under subsection 13.16(4) of NI 31-103, be members of an identified ombudservice, cooperate with the identified ombudservice in respect of its investigation and review of complaints, and comply with final decisions of the identified ombudservice. We expect that under the proposed framework the identified ombudservice would have the authority to decide to make a financial award or direct the firm to take a specified corrective action, such as correcting erroneous information a firm provided to a credit bureau or the Canada Revenue Agency regarding a complainant.

The proposed framework would require a firm to comply with the identified ombudservice's recommendation if neither party objects to the recommendation within a specified period. In these circumstances, a non-binding recommendation would be deemed to be a binding final decision of the identified ombudservice.

A party objecting to the recommendation would trigger a review of that recommendation and that review could result in the issuance of a binding final decision by the identified ombudservice. The proposed rule amendments would require a firm to comply with the identified ombudservice's decision, unless the complainant has rejected the decision or withdrawn from the dispute resolution process in a manner authorized by the rules of the identified ombudservice.

Section 13.16.1 would apply to a firm if a not-for-profit IDRS has been designated or recognized, making it the identified ombudservice in the jurisdiction. Section 13.16.1 would impose requirements on a firm regarding membership, cooperation, and compliance with a final decision as noted above.

If a CSA jurisdiction has not designated or recognized an identified ombudservice, the status quo is expected to apply in that jurisdiction, such that section 13.16 would continue to apply, and OBSI would continue to be authorized to issue non-binding recommendations.

Finally, the proposed rule amendments include a prohibition on firms using certain terminology that could be misleading or confusing to a retail investor (such as "ombudsman", "internal ombudservice" or a term that is substantially similar) when referring to a firm's complaint handling procedures or to an internal department or service that engages in complaint handling. The proposed prohibition on firms using certain terminology is consistent with Joint CSA Staff Notice 31-351 *Complying with requirements regarding OBSI* which indicates the general view that if an "internal ombudsman" is included in a registered firm's complaint-handing system, there is a potential for clients to confuse or conflate the firm's internal service with OBSI.[31] A similar prohibition can also be found at subsection 627.43(2) of the *Bank Act*,[32] which is applicable to the banking sector.

[31] Joint CSA Staff Notice 31-351, IIROC Notice 17-0229, MFDA Bulletin #0736-M – *Complying with requirements regarding the Ombudsman for Banking Services and Investments*, (December 2017) 30 OSCB 9651 at pp 4-5.
[32] SC 1991, c 46.

Consultation Question

9. Please provide your views on the anticipated effectiveness of prohibiting the use of certain terminology for internal or affiliated complaint-handling services that implies independence, such as "ombudsman" or "ombudservice", to mitigate investor confusion.

b. Proposed Changes to 31-103 CP

The proposed CP changes align complaint handling guidance with the requirements in NI 31-103. This includes additional discussion of complaint handling with respect to complaints lodged with a firm verbally, as well as when OBSI may be notified about a complaint. Additionally, it clarifies the CSA's expectation that for purposes of a firm's complaint handling obligations under NI 31-103, a complaint regarding trading or advising activity can include a complaint about client information, trading authority or suitability, and that consequently, CSA expects a firm to respond substantively and in writing.

The proposed CP changes also provide guidance regarding the proposed rule amendments, particularly the requirements they impose on firms. This includes discussion of when a firm is subject to the requirements of an identified ombudservice, when existing requirements would continue to apply, as well as membership and cooperation requirements with respect to an identified ombudservice.

6. Other matters

a. Alternatives considered to the proposed rule amendments and the proposed framework

The CSA has considered maintaining the status quo, under which OBSI would continue to make non-binding recommendations after its review of a complaint. The CSA is of the view that not proceeding with binding authority for a designated or recognized IDRS would prevent potential improvements to investor protection and potential enhancements to fairness, efficiency, and confidence in the investment services sector. As discussed above, the CSA has also considered adjustments to various elements of the proposed framework. While the proposed framework represents the CSA's view at this time, we welcome further comments on these elements. Please see section 7 below.

b. Local Matters

Where applicable, Annex E provides additional information required by the local securities legislation.

7. Request for Comments

a. Consolidated Questions

We welcome your comments on all aspects of the proposed rule amendments, the proposed CP changes, and the proposed framework. In addition to considering local regulators' statements of regulatory priorities and the reports of OBSI's independent evaluators, the CSA has consulted with OBSI regarding its processes and practices. The CSA also noted consultations by Ontario's Capital Markets Modernization Taskforce as well as by others, where relevant.

In addition to any general comments you may have, we also invite comments on the specific questions included throughout this Notice, which are reproduced in the following consolidated list for ease of review:

1. The CSA contemplates that under the proposed framework, an IDRS would be authorized to issue binding decisions in circumstances where it is designated or recognized in a jurisdiction as the identified ombudservice. It is possible that some CSA jurisdictions may not designate or recognize OBSI as the identified ombudservice at the same time, resulting in the status quo (e.g., OBSI making non-binding recommendations only) applying in those jurisdictions until OBSI were designated or recognized as the identified ombudservice. If jurisdictions designate or recognize OBSI as the identified ombudservice at different times, what operational impacts, if any, would you anticipate from an IDRS being designated or recognized in some but not all jurisdictions? How can these impacts best be managed?

2. The proposed rule amendments include a new provision requiring compliance with a final decision of the identified ombudservice. Under the proposed framework, we contemplate that both a recommendation or decision of the identified ombudservice could become a final decision that will be binding on the firm under certain circumstances. Specifically:

    a. With respect to a recommendation made by the identified ombudservice following the investigation and the recommendation stage, we contemplate the recommendation becoming a final decision where (i) a specified period of time has passed since the date of the recommendation, (ii) neither the firm nor the complainant has objected to the recommendation, and (iii) the complainant has not otherwise withdrawn from the process in a manner authorized by the identified ombudservice (the **deeming provision**). What are your general thoughts about the deeming provisions and the circumstances that trigger it? Please also comment on whether 30, 60, 90 days would be an appropriate length of time to be specified for a recommendation to be deemed a final decision under the deeming provision.

    b. With respect to the decision made by the identified ombudservice following the review and decision stage, we contemplate the decision becoming final where (i) a specified period of time has passed since the date of the decision (the **post-decision period**), and if the complainant did not trigger the review and decision stage, (ii) the complainant has not rejected the decision and has not otherwise withdrawn from the process in a manner authorized by the identified ombudservice. Please comment on the provision of this post-decision period and whether 30, 60 or 90 days would be the appropriate length for the post-decision period.

3. The proposed framework contemplates that complainants could not reject a decision of the identified ombudservice if they initiated the second-stage review of the recommendation by objecting to it. What are your views on this approach?

4. Please provide any comments on maintaining the compensation limit amount of $350,000.

5. The proposed framework does not contemplate an appeal of a final decision to either a securities tribunal, or a statutory right of appeal to the courts (although parties could still seek judicial review of a final decision). What impact, if any, do you think the absence of an appeal mechanism will have on the fairness and effectiveness of the framework for parties to a dispute?

6. Should the proposed framework include a statutory right of appeal to the courts or another alternative independent third-party procedure for disputes involving amounts above a certain monetary threshold (for example, above $100,000)? If so, please explain why.

7. Are there elements of oversight, whether mentioned in this Notice or not, that you consider to be of particular importance in ensuring the objectives of the proposed framework are met? If so, please explain your rationale.

8. Do you consider oversight, together with the other aspects of the proposed framework discussed in this Notice, to be sufficient to ensure that the identified ombudservice remains accountable?

9. Please provide your views on the anticipated effectiveness of prohibiting the use of certain terminology for internal or affiliated complaint-handling services that implies independence, such as “ombudsman” or “ombudservice”, to mitigate investor confusion.

b. Comment Process

Please submit your comments in writing by February 28, 2024.

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period. In addition, all comments received will be posted on the websites of each of the Alberta Securities Commission at www.asc.ca, the Autorité des marchés financiers at lautorite.qc.ca and the Ontario Securities Commission at www.osc.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Thank you in advance for your comments.

Please address your comments to all of the CSA as follows:

Alberta Securities Commission
Autorité 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

Please deliver your comments only to the addresses that follow. Your comments will be forwarded to the remaining jurisdictions:

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Contents of Annexes

This Notice contains the following annexes:

- Annex A – Proposed Rule Amendments to National Instrument 31-103
- Annex B – Blackline showing Proposed Amendments to National Instrument 31-103
- Annex C – Blackline Showing Proposed Changes to Companion Policy 31-103CP
- Annex D – Overview and Flowchart of Identified Ombudservice Processes under Proposed Framework

- Annex E – Local Matters

Questions

Please refer your questions to any of:

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Financial and Consumer Affairs Authority of Saskatchewan

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