

**Sent Via email**

October 17, 2019

**Proposed Amendments Respecting Disclosure of Information by  
Ombudsman Service to IIROC** [https://www.iiroc.ca/Documents/2019/e635c0ca-2803-4d84-a4f0-cb08fe38f98e\\_en.pdf](https://www.iiroc.ca/Documents/2019/e635c0ca-2803-4d84-a4f0-cb08fe38f98e_en.pdf)

Ibrar Ahmed Policy Counsel, Member Regulation Policy  
Investment Industry Regulatory Organization of Canada Suite 2000,  
121 King Street West  
Toronto, ON M5H 3T9 416.943.4631  
[iahmed@iiroc.ca](mailto:iahmed@iiroc.ca)

Kenmar is an Ontario- based privately-funded organization focused on investment fund investor protection via on-line research and education papers and Investor ALERTS hosted at [www.canadianfundwatch.com](http://www.canadianfundwatch.com) . Kenmar also publishes *the Fund OBSERVER* on a monthly basis discussing investor protection issues primarily for retail investment fund investors. An affiliate, Kenmar Portfolio Analytics, assists, on a no-charge basis, retail investors and/or their counsel in filing complaints and restitution claims. Additionally, we are active in regulatory affairs and regularly participate in public Consultations. Through these engagements we are able to take the pulse of investor protection in Canada.

IIROC is proposing a rule change to ensure that information uncovered by the Ombudsman for Banking Services and Investments (OBSI) when investigating investor complaints can be shared with it.

The provisions in OBSI's Terms of reference are broader with respect to the type of information that can be provided to securities regulators" than the equivalent provisions in the IIROC's rules. It therefore makes sense to expand the scope of the cooperation (IIROC is a Member of the Joint Regulators Committee that oversees OBSI). Both organizations have strict protocols to protect information privacy.

Such information sharing is most definitely in the Public interest. Among other things, this would help IIROC identify any developing potential systemic issues, be alerted to cases where OBSI expects that a firm may refuse a compensation recommendation and provide better feedback to the IIROC on the effectiveness ( or not) of its rules. This supports the recommendation in the 2016 Battell Report that OBSI take a more strategic approach.

The consultation implies, but does not explicitly state, that the IIROC will actually use the information provided for compliance/enforcement purposes. Given the persistence of industry investor compensation low-balling, Kenmar believe IIROC should commit to acting on the shared information.

How long must investors, with valid complaints, be denied the fair restitution recommended by OBSI? IIROC should be prepared to pursue more substantive remedies and actions. We therefore recommend that the rule change provide

explicit language that describes how IIROC plans to use the information acquired in the best interests of financial consumers.

Kenmar support the proposed changes with the proviso stated.

Kenmar agree to public posting of this Comment Letter.

We would be pleased to discuss our comments and recommendations with you in more detail at your convenience.

Respectfully,  
Ken Kivenko P. Eng.  
President, Kenmar Associates