Demystifying OBSI's loss calculation for unsuitably sold illiquid exempt market securities

October 31, 2024

The Ombudsman for Banking Services and Investments (OBSI) released a consultation relating to its approach to calculating investor loses where there has been an unsuitable sale of illiquid exempt market securities. The consultation reviews OBSI's fundamental approach to financial harm calculation, which is to identify an amount of compensation that puts an investor in the position they would have been had the error not occurred, and that such amount will be reduced when it is fair to do so (*e.g.* where an investor contributed to the harm).

Currently, if the evidence shows the investor would have invested in suitable investments, OBSI will compare the portfolio performance with the performance of a hypothetical comparative portfolio of suitable investments. Calculating the value of actual investments made as at the end of the relevant period becomes complicated for certain illiquid exempt market securities if there is no market or if there are so few arms-length transactions that a market price can not be determined. If there is insufficient evidence about the value of the security, OBSI will assign a value of zero to such securities for purposes of the loss calculation and require the investor to return the exempt market security to the firm. OBSI seeks formal industry views on this methodology, and poses two questions relating to the current approach, and whether there are circumstances where such an approach should not be used. Comments on the proposal are sought by **November 21, 2024**.

By

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