

# Canadian Foundation for Advancement of Investor Rights

October 9, 2008

Joint Standing Committee on Retail Investor Issues  
c/o Ontario Securities Commission  
20 Queen Street West  
Suite 1900, Box 55  
Toronto, ON M5H 3S8

## **Re: Product Suitability Consultation**

We refer to the consultation by the Joint Standing Committee on Retail Investor Issues ("JSC") which requested responses by October 9, 2008.

We found the questions to be far too general and open ended for the responses to be of much use. We believe that the consultation would benefit from a clearer articulation of the reasons for and objectives of the consultation.

The following are the 3 questions posed in the consultation and our comments:

1. *What information about an investment does your adviser give you before and after you buy it? Is there any other information you would like?*

We do not see the purpose of this question as regulatory requirements generally mandate the information that is to be provided about an investment. Further, since the types "investments" are so numerous, it is difficult for investors to provide the JSC with useful responses.

2. *Should specific investment products be prohibited from sale to the public, or should all products be available to investors and investors be allowed to make their own choice?*

Again this question is too open ended and seems to ask whether government should be paternalistic and protect investors and limit choice or whether there should be complete freedom of choice without regulation. Does the JSC mean to ask whether any form of product should be permitted to be sold to investors where

- (a) full disclosure is made about the product;
- (b) the investor is financially literate enough to be capable of understanding the product and does understand the product; and
- (c) the product is suitable for the investor?

Clearly products should not be sold by registrants to retail clients where the product is not transparent, where the client is not able to understand the product

(including the risks involved) or where the product is not suitable for the client based on the client's circumstances.

3. *Should regulators focus on regulating specific products or on regulating how products are sold and distributed?*

Regulators should both regulate the product and how the product is sold and distributed. Regulators should determine the appropriate level of regulation for a product and how and to whom the product is sold before the product is introduced to the market. In that respect we attach a copy of our submission in response to the consultation on the proposed introduction of Special Purpose Acquisition Corporations or SPACs.

As a general matter, based on feedback we have had from investors, investors need more action from regulators, not more public consultations. Broad consultations in the guise of being able to say that the regulators are doing something diminish regulators credibility. Where consultations are conducted they should be more focused.

Further, where the regulators do conduct a public consultation and are genuinely interested in investor input, a 30-day comment period is far too short. We recommend that the standard consultation period be 60 or 90 days (depending on complexity etc.) in the absence of some urgency or need for timely action.

If the JSC is interested in investor feedback, we recommend that the JSC form an investor committee composed of representatives of investors/consumers such as the Consumer Council of Canada, the Small Investor Protection Association, CARP, etc. We would be pleased to participate in such a forum.

We note that the OSC has 9 advisory committees with well over 100 members. We do not see any meaningful investor representation on any of these committees. The OSC may wish to consider having investor representation on some of these committees.

Yours truly,

Ermanno Pascutto  
*Executive Director*

**CANADIAN FOUNDATION FOR ADVANCEMENT OF INVESTOR RIGHTS**

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Attach: FAIR Canada Letter of September 29, 2008 on SPACs