FAIR | Canadian Foundation *for* Advancement *of* Investor Rights

For immediate release

FAIR Canada calls for improvements to CSA Point of Sale Initiative

Toronto, ON | October 20, 2009 – The Canadian Foundation for Advancement of Investor Rights (FAIR Canada) recently submitted its comments to the Canadian Securities Administrators (CSA) on proposed amendments to the mutual fund point of sale initiative (POS).

FAIR Canada expressed strong support for the CSA's goal to provide investors with clear, meaningful and simplified information when mutual funds are sold to retail investors. However, FAIR Canada noted serious concerns about certain aspects of the proposal.

Proposed "Cancellation Right" is a Reduction in Investor Rights

Under the CSA's proposed and misnamed "cancellation right", investors are losing their existing statutory right of withdrawal (i.e. the ability to cancel a mutual fund purchase within two days of receipt of the prospectus). That right is being replaced by a reduced cancellation right, where a consumer is left with less than his or her original investment if the value of the mutual fund investment has fallen in the intervening 1-2 days. This is at odds with the goal of improving investor protection and with the general approach of consumer protection legislation where consumers have straightforward cancellation rights for up to ten days.

"Even though there were no problems with existing withdrawal rights, the CSA is going out of its way to create a novel form of "cooling off" period where investors are exposed to downside risk if the mutual fund goes down in value but do not profit when the mutual fund goes up in value", said Ermanno Pascutto, Executive Director of FAIR Canada.

Under the existing withdrawal right, a retail investor who decides to cancel a mutual fund purchase of $100,000 within 1-2 days would simply get back the $100,000 investment. Under the CSA's proposed depreciated cancellation right, if the mutual fund drops by 2% in value, the investor gets back $98,000 and loses $2,000. On the other hand, if the mutual fund goes up 2% in value and the investment is valued at $102,000, the investor only gets the original $100,000 returned.

"Where does the $2,000 profit go and why is the CSA not making it clear where the profit will go?" asked Ermanno Pascutto. "Since the profit is not going to the investor, it must be going to the mutual fund manager or the salesman who sold the investment that the investor considered inappropriate. We are puzzled about why regulators whose mission is investor protection would reduce investor rights and create this asymmetric cancellation right: where the investor can lose but cannot win."

Simplified Prospectus Should be Delivered to Investors

Under the proposed CSA initiative, non-delivery of the Simplified Prospectus would become the default position. This means that the Simplified Prospectus will not be delivered to the great majority of retail investors. The least sophisticated retail investors are the ones least likely to receive the prospectus. This is a major change, and is inconsistent with the position of securities commissions for decades. FAIR Canada is calling on the CSA to make it a priority to reduce the length and complexity of the Simplified Prospectus, and mandate that it be written in plain English.

In its notice, the CSA says that *'investors have trouble finding and understanding the information [in the Simplified Prospectus] because it is a long and complex document*.' "We agree with the CSA that the Simplified Prospectus is too long and complex. However, we disagree that the appropriate regulatory response is to do away with delivery of the Simplified Prospectus to retail investors. The better regulatory response is to mandate that mutual fund companies produce a Simplified Prospectus in plain English", said Mr. Pascutto.

Transition period should be changed from two years to six months

The initiative to deliver a 1-2 page simple Fund Facts document has taken a decade to finalize, and the CSA proposes to provide a two-year transition period after the effective date of the legislation. This means that full implementation is proposed to be delayed until 2012.

FAIR Canada believes that it is crucial for the CSA to move forward as quickly as possible on this initiative, since it has taken so long to arrive at this stage. FAIR Canada believes that a six-month transition period should be sufficient for industry.

"Retail investors need clear, meaningful and simplified information about risks, fees and other material information that the Fund Facts document will provide. They have waited many years – why must they wait another three years? Industry is asking for an even longer delay. In fact, the Investment Industry Association of Canada noted in its comment letter that it prefers to wait for a complete overhaul of the disclosure regime for mutual funds, something which would set back the POS project another five to ten years", said Mr. Pascutto.

FAIR Canada also suggested a number of improvements to the Fund Facts document, including disclosure of after-tax returns. While some changes should be made now, it is important that the entire point of sale project not be delayed any further. Any changes that would delay implementation should be considered as part of an overall review of the project. This should be undertaken after implementation of the POS initiative.

Platform for Reform

FAIR Canada was strongly encouraged by the CSA's statement in the June 19, 2009 notice that "we [the CSA] expect disclosure for all types of investment funds will evolve with time, and we anticipate that point of sale disclosure for mutual funds and segregated funds may provide a platform for future regulatory reform." FAIR Canada has recommended that the CSA consider how the POS initiative can provide a platform for future regulatory reform for other types of investment funds, with a view to publishing a CSA proposal for public comment by June 30, 2010.

"Reforms to enhance investor rights in Canada can take too long. Regulators in Canada need to have a greater sense of urgency and to focus on their primary mandate of investor protection", said Mr. Pascutto.

The full FAIR Canada submission to the CSA is attached to this press release and is available on our website at www.faircanada.ca.

About FAIR Canada

FAIR Canada is a non-profit, independent national organization dedicated to representing the interests of Canadian investors. The mission of FAIR Canada is to be a voice for investors in securities regulation and a catalyst for enhancement of the rights of Canadian shareholders and retail investors. Visit www.faircanada.ca for more information.

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