

FAIR

Canadian Foundation *for*
Advancement *of* Investor Right

FAIR Canada makes submission to Ontario Standing Committee Reviewing OSC

FAIR Canada was invited to make a presentation to the Standing Committee during its continuing review of the Ontario Securities Commission (OSC) on Monday, February 23, 2009. The mandate of the Committee is to review the operation of all agencies, boards and commissions and report to the Ontario Legislature. Among other things the review is concerned with improving the accountability of government agencies and to review intended appointments to agencies, boards and commissions.

The following are the Recommendations made in the FAIR Canada written submission:

OSC OVERSIGHT AND ACCOUNTABILITY

The Legislature should improve its oversight of the OSC. Its oversight should include a requirement that the annual reports of the OSC be automatically referred to a Committee of the Legislature which should have appropriate resources and powers including the ability to compel witnesses.

The Committee should commission (or recommend to the Legislature the commissioning of) a regulatory audit of the OSC by securities regulation experts retained by the Legislature and reconvening the Committee once the experts have reported to the Committee.

LACK OF RETAIL INVESTOR INVOLVEMENT IN SECURITIES REGULATION

Retail investors and shareholders should be adequately represented on the Commission. Of the current 3 commissioner vacancies, one should be expressly allocated for a retail investor representative.

INVESTOR ADVISORY COMMITTEE

The OSC should be asked to implement an independent investor committee as part of its consultative committee structure along the lines of the UK Investor Panel including adequate financial resources and support and compensation for the members of the committee.

RETAIL INVESTORS - RESTITUTION AND REDRESS

The Ontario Government and OSC give serious consideration to implementing the recommendations of the Expert Panel Report with respect to complaint handling and redress by:

- granting the OSC the power to order compensation in the case of a violation of securities law so that the investor would not be required to resort to the courts;
- establishing of an investor compensation fund funded by industry to allow the securities regulator to directly compensate investors for a violation of securities law;
- mandatory participation of registrants in the dispute resolution process of a legislatively designated dispute resolution body.

Pending implementation of legislative changes which often takes many years, the Committee should ask the OSC to follow up on the recommendation that IIROC review its arbitration procedure with a view to making it more helpful and less costly to investors and more transparent. The maximum claim should be raised to \$350,000 or higher.

SHAREHOLDER RIGHTS AND THE TSX

The OSC should be asked to review the regulatory role of the TSX in light of the conflict of interest between its regulatory function and the profit mandate of the TSX and international best practice for exchanges that have demutualized and became "for profit" public companies. The OSC should be asked to report back to the Legislative Committee.

The OSC should be asked to direct the TSX to bring its rules up to international best practice particularly as it relates to shareholder approval for major transactions.

FINANCIAL LITERACY

The Ontario government should take leadership in financial literacy and develop and implement a provincial financial literacy strategy. It should work with other Canadian governments to develop a national financial literacy strategy.

Ontario should make financial literacy mandatory in all Canadian high schools so that the next generation enters the work force and financial system with a basic level of financial literacy.

Government (including the OSC and educators) should test the effectiveness of existing adult financial literacy initiatives and not simply assume their effectiveness.

The OSC should be asked to revisit the "accredited" or "sophisticated" investor exemption and require objective evidence of financial literacy. The OSC needs to shift responsibility back to financially sophisticated market participants who manufacture and sell financial products. Market participants should be required to establish that the consumer truly understands the products before buying them.

A copy of our full submission is available on our [website](#).

David Wilson (Chair), Peggy Dowdall-Logie (Executive Director) and Lawrence Ritchie (Vice Chair) and a number of OSC staff were present. Other stakeholders presenting were Pamela Reeve, Stephen Griggs (Canadian Coalition for Good Governance), Kristan Birchard, Greg Pollack, Peter Tzanetakis (Advocis), Dr. Anita Anand and Michael Code (Professors at UofT) and Diane Urquhart.

A transcript will be available on the Ontario Legislative Assembly [website](#) shortly.

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