



Canadian Foundation *for*
Advancement *of* Investor Rights

November 29, 2010

Ministry of Finance
Retirement Income Security Submission
c/o Communications & Corporate Affairs Branch
3rd Floor, Frost Building North
95 Grosvenor Street
Toronto, ON M7A 1Z1
Sent via email to: Pension.Feedback@ontario.ca

RE: Securing Our Retirement Future: Consulting with Ontarians on Canada's Retirement Income System

FAIR Canada is pleased to offer comments on the Ontario Ministry of Finance's consultation on Canada's retirement income system. Thank you for the opportunity to provide these comments. In particular, we commend the Ministry of Finance for stressing within its consultation document the impact that fees have on long-term savings for retirees.

We have provided brief responses to a number of the questions posed in the consultation document (not necessarily in the order presented in the consultation document), and would be happy to meet with Ministry staff to discuss our comments further.

By way of background, FAIR Canada is an independent, non-profit organization dedicated to representing the interests of Canadian investors and shareholders in securities regulation. The mission of FAIR Canada is to be a national voice for investors and shareholders in securities regulation and a catalyst for enhancing the rights of Canadian shareholders and individual investors.

FAIR Canada Recommendations – Executive Summary:

- I. Increase transparency of investment fees and returns, particularly for mutual funds. Require mutual funds to provide benchmarks and specific endpoints to provide investors with the tools to measure performance.
- II. Mandate a duty for financial advisors to act in the best interests of their clients.
- III. Provide more resources to arm adult investors with the tools they need to make informed financial decisions. Take a hard line at combating misinformation and misleading information in the financial services industry.
- IV. Expand the breadth of the Canada Pension Plan. Continue to manage the CPP publicly, and

leverage publicly managed resources by allowing private investments to be managed by the CPP. Automatically enrol members in a plan, but allow for opt-out.

Discussion Question: *What can be done to help reduce fees charged on investment funds?*

1. Mutual funds are important to voluntary private savings

- 1.1. FAIR Canada agrees that voluntary private savings are important to ensure financial security in retirement. While pillars 1 and 2 are central to the well-being of many retired Canadians, we believe that, regardless of proposed improvements to pillars 1 and 2, Canadians will increasingly rely upon voluntary private savings to ensure their current standard of living is continued into their retirement years.
- 1.2. Assets invested in Canada's mutual fund industry at the end of October 2010 totalled nearly \$616 billion. Statistics Canada's 2005 Survey of Financial Security found that more than half of registered plan values were invested in mutual funds and income trusts. In 2005, almost \$600 billion was held in registered plans.¹ Mutual funds are integral to pillar 3 of Canada's retirement income system.

2. Mutual fund statements

- 2.1. Mutual fund fees in Canada have been found to be higher than in many other jurisdictions. Since fee disclosure in many mutual fund statements is not presented in a clear meaningful way, many investors are unaware of the significant impact that fees can have on savings, particularly when measured over the long term. FAIR Canada is very concerned about the high fees charged by many Canadian mutual funds, and the lack of essential, clearly laid-out information being provided to investors. Fee information should be required to be reported in both a percentage format and in dollars and cents in order to be meaningful to retail investors.
- 2.2. Benchmarks are also crucial in order for investors to measure mutual fund performance. Without an appropriate comparator, investors cannot evaluate the performance of their investment in an informed, objective way. Mutual fund statements should be required to contain appropriate benchmarks.
- 2.3. Reported fund performance can vary materially depending on the end points selected for reporting, due to short-term variations in the value of assets. Strategically selected endpoints can mislead investors, therefore we recommend that requirements be introduced regarding the selection of endpoints by mutual funds.

3. Duty to Act in Investors' Best Interests

- 3.1. Current financial services industry business models foster inherent conflicts of interest

¹ See <<http://www.statcan.gc.ca/pub/75-001-x/2008102/article/10520-eng.htm>>

between advisors' and clients' best interests. Advisors² are only obliged to provide clients with advice based on the "suitability" requirement. We believe that the framework should be shifted to one where a client's best interests are put first, so that registered firms and individuals who provide investment advice are required, when providing that advice, to put their client's best interests first.

- 3.2. Other leading jurisdictions, notably the U.K., Australia and the U.S., are engaging in proactive, investor-focused regulatory initiatives to address this inherent conflict-of-interest situation. Examples include the future banning of embedded product provider commissions (U.K. and Australia) and the consideration of a uniform statutory fiduciary standard for all providers of financial advice (U.S. and Australia).
- 3.3. We believe that discussions about these issues should be taking place with greater frequency in Canada. We note, in this regard, that FAIR Canada, together with the Hennick Centre for Business and Law, organized the first Canadian conference focused on the fiduciary duty debate in March 2010. The conference successfully brought together over 100 participants and engaged the financial community in what we view as a crucial discussion. Such a dialogue is imperative to remedying the imbalance and misalignment of information and interests in current financial advisor-client relationships.

4. Financial Literacy

- 4.1. FAIR Canada believes that financial literacy is an important long-term goal to ensure that Canadians make informed investment decisions that will provide financial security through their retirement years. The more informed investors are, the better their financial decisions will be.
- 4.2. The integration of financial literacy into the Ontario school curriculum is a positive and welcome improvement. However, we urge the government of Ontario to provide more resources to arm adult investors with the tools they need to make informed financial decisions. A significant informational asymmetry currently exists between individuals and the Canadian financial services industry. We believe that the government can play a crucial role in compensating for this asymmetry. The Investor Education Fund is a good start, but FAIR Canada would like to see greater public outreach and improved public awareness of services available to individual investors. We believe that it is in the government's interest to promote regulation that facilitates and encourages voluntary personal savings as a way of bolstering Canada's retirement income system.
- 4.3. As noted in FAIR Canada's National Strategy for Financial Literacy appendix to its SCOGA (Standing Committee on Government Agencies) submission,³ investor education programs tend to shift responsibility from financially sophisticated market participants who manufacture and sell financial products to ordinary, financially unsophisticated consumers.

² Throughout this submission, we use the term "advisor" to mean registered individuals that provide investment-related advice to clients.

³ See <<http://faircanada.ca/wp-content/uploads/2008/12/Final-Submission-to-Standing-Committee-july-30-FINAL.pdf>> at page 13 (attachment).

- 4.4. Since there will always be an asymmetrical relationship between financial advisors and retail investors that a long-term financial literacy strategy will be unable to solve completely, we believe that governments and securities regulators should shift responsibility back to financially sophisticated market participants that manufacture and sell financial products to consumers.
- 4.5. As noted in our submission to the Task Force on Financial Literacy,⁴ we believe that a financial literacy strategy can only work effectively if it takes a hard line at combating the advertising and marketing practices of a highly competitive industry with a pervasive advertising and promotional presence. FAIR Canada recommends that Ontario's financial literacy strategy strenuously oppose misinformation and misleading information within the financial industry.
- 4.6. Such an approach, combined with introducing a requirement for financial advisors to act in clients' best interests, would form a solid foundation for an effective strategy in a world where, at present, many Canadians rely on their financial advisors for making important financial decisions that will ultimately affect their ability to retire affordably and securely.

Discussion Question: *Do you favour a modest expansion of the CPP? If so, do you prefer an increase to the replacement rate, an increase of the earnings ceiling, or both?*

What do you believe is an appropriate replacement rate for the CPP? What is an appropriate earnings ceiling?

5. CPP (Canada Pension Plan) Expansion

- 5.1. FAIR Canada supports an increase in both the CPP replacement rate and earnings ceiling.
- 5.2. We believe that, over time, an income replacement rate of 40% should be targeted, similar to that in the U.S. We support the phase-in of any CPP changes to replacement rate and earnings ceiling but people should have the option of moving immediately to the higher contribution rates (i.e. mandatory phase-in and optional immediate effect with no phase-in).

Discussion Question: *Do you believe a single fund for an expanded CPP is appropriate? Should there be more than one fund? If so, should they be managed by the public or private sectors, or both?*

6. Fund and Management

- 6.1. FAIR Canada supports the CPP as a public sector pension plan. We believe that the CPP should manage the additional funds or alternatively a new public sector pension modeled on CPP ("CPP2") should be established to manage new funds stemming from the expansion of the plan.
- 6.2. As outlined in our submission to the Task Force on Financial Literacy,⁶ FAIR Canada encourages

⁴ See http://faircanada.ca/wp-content/uploads/2010/05/FAIR-Canada-submission-to-Task-Force-on-Financial-Literacy_Final.pdf.

⁶ See < http://faircanada.ca/wp-content/uploads/2010/05/FAIR-Canada-submission-to-Task-Force-on-Financial-Literacy_Final.pdf.

requiring the CPP to offer Canadians the choice of making RRSP contributions into private accounts, to be pooled into a fund managed by CPP. We also support permitting other large pension plans to participate in these funds, thereby leveraging public management resources. Accountholders could be permitted to take advantage of additional financial literacy resources that such a program could make available.

- 6.3. We believe that such a proposal could radically increase the practical public choice available to Canadians regarding their retirement savings. The size and power of such funds would make them extremely attractive as a "default choice" for Canadians concerned with accessing good economic performance, in safe hands, with a simple and easy-to-understand product, and at low cost. This in turn would, we consider, "nudge" the private for-profit financial industry towards providing services that would improve the architecture of choice for retirement savers.

Discussion Question: *Should members be able to voluntarily opt in or be enrolled automatically and have the ability to opt out?*

7. Automatic Enrolment

- 7.1. We support the suggestion that there should be automatic enrolment in a plan, but with the ability to opt out.

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your convenience. Feel free to contact Ermanno Pascutto at 416-572-2282/ ermanno.pascutto@faircanada.ca or Ilana Singer at 416-572-2215/ ilana.singer@faircanada.ca.

Sincerely,

Canadian Foundation for Advancement of Investor Rights