

FAIR

Canadian Foundation *for*
Advancement *of* Investor Rights

A Decade of Financial Scandals

FAIR Canada Calls for a National Action Plan to Tackle Investment Fraud

Ontario Securities Commission – Securities Enforcement in Transition

Kempfenfelt Conference Centre

June 13, 2011

June 1, 2011

About FAIR Canada

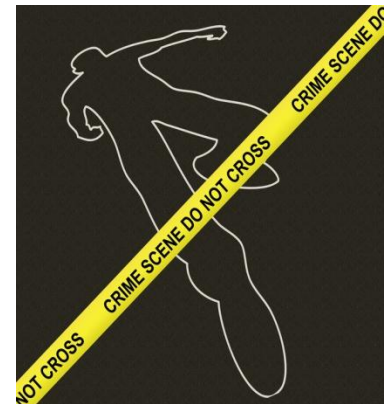
- FAIR Canada is a national, non-profit organization that advocates for stronger investor protection in securities regulation.
- Governed by independent Board, including:
 - Stephen Jarislowsky
 - Claude Lamoureux
 - Ellen Roseman
 - Neil de Gelder
 - Robert Pouliot
 - Stan Buell

Overview

- **Financial fraud: Impact on victims' lives:**
 - Loss of a significant part of, or entire, life savings
 - Affect financial, emotional, psychological and physical health and seed doubts about the security and fairness of our financial system
 - High incidences of stress, anger, depression, loss and isolation

Financial Fraud a Major Problem

- Investment fraud is a daily event in Canada – 1 in 10 Canadians (CSA)
- Number and size of investment frauds continues to increase – 1.3 million victims
- Prevalence of fraud reduces investor confidence in capital markets



FAIR Canada's Report

- FAIR Canada reviewed fifteen high profile financial frauds
- Report was not an exhaustive or empirical study of financial fraud in Canada – limited review of 15 cases. Comprehensive study needed.
- Report calls for improved prevention, detection and prosecution of financial fraud and better victim compensation



Complex and Fragmented System Not Effective



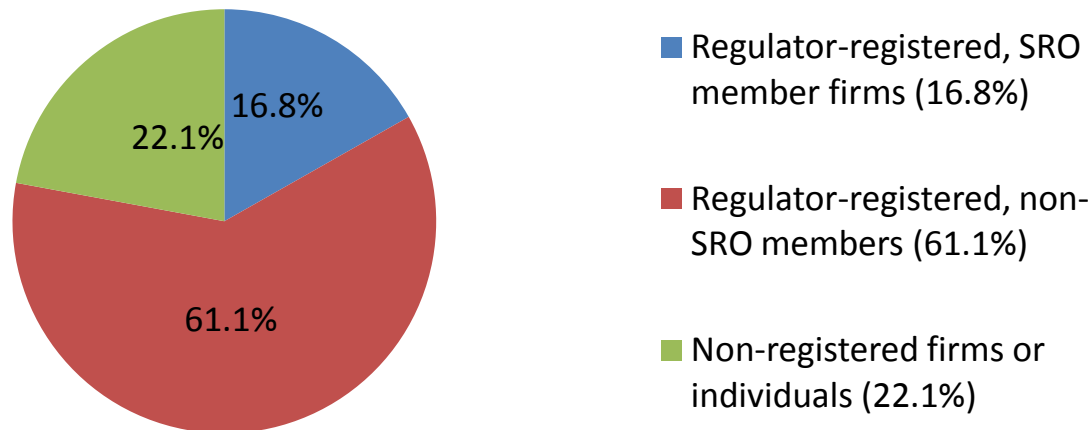
Investment fraud investigation and prosecution can involve dozens of agencies:

- Thirteen securities regulators
- Two national securities SROs
- Other financial regulators
- Local and provincial police
- RCMP and IMET
- Thirteen Attorneys General/Crown Attorney

Findings of Cases Reviewed

- Canadians lost an estimated \$1.9 billion in the fifteen scandals reviewed:

Losses in fifteen cases reviewed



Findings of Cases Reviewed

- Compensation funds (CIPF and IPC) only compensated 2% of the financial losses in the fifteen cases reviewed, even though most cases involved registrants
- Highest risk registrants are not SRO members and are not backed by a compensation fund
- CIPF and IPC have major gaps in coverage
- Investors unable to understand when they have coverage.

Recommendations

- 1. Fraud Prevention**
- 2. Earlier Detection of Financial Fraud**
- 3. Better Enforcement** leading to more effective prosecution and stronger sanctions
- 4. Improved Compensation** for victims of investment fraud

1. Fraud Prevention

- We encourage governments, regulators and SROs to launch a major public education campaign to educate Canadians about avoiding financial scams
 - Particular focus should be on educating vulnerable groups (e.g. seniors, immigrants, etc.)
- We recommend that regulators provide a comprehensive, plain language, “one stop” national system for the public to check registration status, background information (including proficiency and disciplinary record) and SRO membership

1. Fraud Prevention (Cont)

- Registered firms are called upon to take responsibility for compensating clients that are victimized by a rogue advisor working for them – “outside business activities”
- Introduce professional duty for all registrants to report potential serious misconduct by other registered persons
- Recommend financial incentives for members of the public who report financial fraud

2. Earlier Detection of Fraud

- FAIR Canada recommends that regulators devote dedicated resources to financial fraud detection and engage in more proactive measures to detect and prevent fraud
 - Frauds are often advertised for long periods
 - Read newspaper ads offering unrealistic returns

2. Earlier Detection of Fraud (Cont)

- Exempt market needs reform: Amend the “exempt offering” and “accredited investor” exemptions to protect unsophisticated consumers – add “knowledge and experience” test
- Objective evidence to confirm “accredited investors” status?
- OSC to audit the veracity of exempt offering filings based on a risk assessment

2. Earlier Detection of Fraud (Cont)

- All registrants should be required to be a member of an existing SRO backed by a compensation fund
 - Result: All registrants subject to more strict SRO compliance and oversight and backed by an existing compensation fund

3. Improved Enforcement

- National Summit on Financial Fraud:
 - Topic: how Canada can do a better job deterring, preventing, detecting and prosecuting investment fraud
 - Participants to include federal and provincial Attorneys General, regulators and police
 - OSC/CSA to convene conference?

3. Improved Enforcement

- New national fraud agency staffed by financial experts under the Federal Attorney General to target investment and other financial fraud
- National Anti-Fraud Agency empowered with overall responsibility for combating financial fraud
- Coordinate with regulators and police

4. Better Compensation for Victims

- Securities regulators need consistent statutory powers to order compensation for victims
- Regulators need a clear mandate to seek compensation for victims
- Recommendation that all registrants be required to be members of an SRO and an existing compensation fund

Support for FAIR Canada Report

1. Twelve fraud victims' groups
 - Including Earl Jones, Norshield, Mount Real
2. Small Investor Protection Association (SIPA)
3. Consumers Council of Canada
4. Common Front for Retirement Security
 - Members include 21 seniors and pensioner organizations

For more information:

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Report available at www.faircanada.ca
➔ Current FAIR Canada Submissions and Reports

Participant Input

Questions:

Opportunity for speaker and participants to engage in discussion about recommendations, questions and comments.

1. Fraud Prevention

- Registered firms to take responsibility for compensating clients that are victimized by a rogue advisor working for them
- Introduce professional duty for all registrants to report potential serious misconduct by registered persons
 - Professionals (for example, lawyers) have duty to report serious misconduct
- Recommend financial incentives for members of the public who report potential financial fraud

2. Earlier Detection of Fraud

- All registrants should be required to be a member of an existing SRO backed by a compensation fund
 - Result: All registrants subject to stricter SRO compliance and oversight and backed by an existing compensation fund

3. Improved Enforcement

- New national fraud agency staffed by financial experts under the Federal Attorney General to target investment and other financial fraud
- National Anti-Fraud Agency empowered with overall responsibility for combating financial fraud

4. Better Compensation for Victims

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