

October 12, 2012

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Sent via e-mail to: john.a.lee@ontario.ca

**RE: Proposed Unclaimed Intangible Property Program for Ontario - Consultation**

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FAIR Canada is pleased to offer comments on the consultation by the Ministry of the Attorney General of Ontario (the “**Ministry**”) regarding the Proposed Unclaimed Intangible Property Program for Ontario (the “**Proposal**”) contained in the consultation issued in October 2012.

FAIR Canada is a national, non-profit organization dedicated to putting investors first. As a voice of Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit [www.faircanada.ca](http://www.faircanada.ca) for more information.

**1. General Comments**

- 1.1. FAIR Canada supports the Ministry’s Proposal to introduce and develop a program to reunite owners with their unclaimed intangible property, including amounts due under an insurance policy, unpaid wages, and interests recognized by such instruments as share certificates and bonds. We believe that such a program would encourage people to trace unclaimed intangible property to which they have a claim and FAIR Canada supports the introduction to the Ontario Legislature of a bill that would establish such a program.
- 1.2. Given the complexity of modern financial services, low financial literacy rates, and other issues identified in the consultation document such as owners who may forget about their intangible property or a lack of awareness on the part of family members of deceased owners, FAIR Canada agrees that a program aiming to reunite people with their unclaimed intangible property would be beneficial for Ontarians. We recommend that the public registry of unclaimed intangible property be made as accessible and user-friendly as possible, in order to make it effective for its intended purpose (i.e. to reunite owners with their property).
- 1.3. We note that intangible property would likely be more administratively difficult than other property, such as the deposits and negotiable instruments administered by the Bank of Canada.

FAIR Canada anticipates future consultation on particular aspects of administration as it pertains to particular types of intangible property.

- 1.4. FAIR Canada suggests that the Ministry operate such a program on a cost-recovery basis. In our view, it would be appropriate to use some of the income generated from the unclaimed intangible property to cover the government's reasonable fees to administer the program.

## **2. Specific Property for Inclusion**

- 2.1. FAIR Canada supports the inclusion of amounts due under an insurance policy, unpaid wages, and interests recognized by such instruments as share certificates and bonds. We also recommend that the program include unclaimed pension benefits (included in the Uniform Law Conference of Canada's Uniform Unclaimed Intangible Property Act (the "**Uniform Act**") in section 1(1)(g)). We believe that pension benefits likely go unclaimed for reasons similar to those of unclaimed shares and amounts due under insurance policies, and a program to reunite owners with such property should be administered in a like fashion.

## **3. Transition Scheme**

- 3.1. FAIR Canada agrees with the proposal not to adopt section 33(2)(b) of the Uniform Act, as we believe that the adoption of such a provision would be contrary to the purpose of the proposed program and would deprive rightful owners of the opportunity to benefit from the new program.
- 3.2. FAIR Canada also agrees with the proposal to include section 33(1) of the Uniform Act which provides that the time periods for determining when property becomes unclaimed are to include the time occurring before the Act comes into force. Providing owners with an opportunity to be reunited with their property earlier accords with the purpose of the Proposal.

## **4. For the Benefit of Ontarians**

- 4.1. We question what the Ministry means by "used for the benefit of Ontarians". There are no particulars contained in the Proposal as to what this means or how such use would operate.
- 4.2. FAIR Canada expects that such particulars will be open to public comment in future consultations.

## **5. Proactive Measures**

- 5.1. FAIR Canada also suggests that the Ministry undertake an assessment of how such property come to be unclaimed, and make recommendations and implement measures to reduce the further accumulation of such unclaimed intangible property. For example, the holder of the intangible property could be required to direct notification of the property (identified by social insurance number ("**SIN**")) to the program, which could forward notice of such to the address associated with that SIN. Reducing the number of instances where property is required to be transferred to the registry would be a very effective way to reduce the program's administrative costs and would further the objectives of the Proposal.

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 416-214-3443 (ermanno.pascutto@faircanada.ca) or Lindsay Speed at 416-214-3442 (lindsay.speed@faircanada.ca).

Sincerely,

A handwritten signature in blue ink, appearing to read "Ermanno Pascutto".

Canadian Foundation for Advancement of Investor Rights