

July 15, 2014

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RE: Financial Consumer Agency of Canada's "Phase 1: Strengthening Seniors' Financial Literacy" of a National Strategy for Financial Literacy

FAIR Canada is pleased to offer comments on the Financial Consumer Agency of Canada's ("FCAC") consultation "Phase 1: Strengthening Seniors' Financial Literacy" of its National Strategy for Financial Literacy published in June 2014.

FAIR Canada is a national, charitable 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 for more information.

Our comments herein are directed at decision-making by Canadians (including seniors) in respect of securities and investment advice, as opposed to other financial products and services. Some of our comments may apply more generally to other financial decision-making by Canadians but our focus is on investments.

1. Executive Summary:

- 1.1. In order to best serve Canadians, the regulatory and business environment in the financial services industry must foster effective competition. **Absent a fair and well-functioning regulatory system, efforts at improving financial literacy will have little real effect.**
- 1.2. In designing both a regulatory system and a financial literacy strategy, regulators must recognize and anticipate cognitive biases. Regulators around the world are grappling with the fact that, even if an acceptable level of financial literacy can be reached, there are psychological or behavioural factors that impact decision-making which may impede good outcomes. Regulators must recognize and appreciate these biases and design initiatives (both educational and otherwise) that take these factors into account in attempting to facilitate better decision-making.
- 1.3. FAIR Canada believes that while there is a considerable amount of valuable content provided by various independent, not-for-profit financial education organizations, the fragmented approach may cause confusion for Canadian financial consumers. A single,

unbiased, independent source of financial information may better serve financial literacy efforts.

- 1.4. FAIR Canada is concerned that there is a dearth of information available in respect of financial fraud in Canada. We believe that a better understanding of the types of fraud that are perpetrated, the frequency of such frauds, the characteristics of the victims targeted, and profiles of the perpetrators would greatly assist in developing a framework to combat investment fraud.
- 1.5. FAIR Canada believes that it is essential to set out the context within which all Canadians make important decisions related to their money in developing a financial literacy strategy. Financial literacy goals must be set and striven for with an appreciation of the incentives that drive the financial services industry and the channels through which consumers access services and financial products, including advice.

2. Overall strategy Questions

1. *What questions and concerns do you feel must be addressed in a blueprint to help strengthen seniors' financial literacy?*
 - 2.1. In order to best serve Canadians, the regulatory and business environment in the overall financial services industry must foster effective competition. Some industries' business models seem to perpetuate a system of many firms with ineffective competition on price and quality to consumers. This is the result of many inter-connected issues, including low financial literacy, conflicts of interest, fragmented regulation, and conflicted business models. The current business model used by many investment firms is centered on transactional compensation which incentivizes the sale of investments rather than the provision of un-conflicted, unbiased financial advice in the best interest of the client.
 - 2.2. Canadians must be provided with the information they need to make rational, informed decisions. However, the regulatory system also must encourage true competition that provides the best possible advice to Canadians. **Absent a fair and well-functioning regulatory system, efforts at improving financial literacy will have little real effect.** Reforms to improve the regulatory system are being considered by the Canadian Securities Administrators, while they have been implemented or are in the process of being implemented in other leading jurisdictions such as the United Kingdom, Australia and Europe.
 - 2.3. In designing both a regulatory system and a financial literacy strategy, regulators must recognize and anticipate cognitive biases. Regulators around the world are grappling with the fact that, even if an acceptable level of financial literacy can be reached, there are psychological or behavioural factors that impact decision-making that may impede good outcomes. Regulators must recognize and appreciate these biases and design initiatives (both educational and otherwise) that take these factors into account and attempt to facilitate better decision-making. The financial industry incorporates findings about

consumer behaviour into marketing and advertising materials. Regulators and educators must also incorporate findings about consumer behaviour into their regulations, content, and delivery in order to support better financial outcomes for seniors.

- 2.4. We note that it is important for any defaults (for example, the type of investment that is used for a PRPP) to be carefully designed because behavioural sciences suggest that ‘nudges’ have a dramatic effect on the choices people make.

3. Goal 1 – Engage more Canadians in preparing financially for their senior years

- 3.1. FAIR Canada supports the objective of encouraging understanding of and participation in RRSPs, Tax-Free Savings Accounts and other programs that facilitate saving and investing. Evidence suggests that Canadians widely misunderstand these programs and may benefit from simple, unbiased information as to their key features.

4. Goal 2 – Empower seniors to plan and manage their financial affairs

- 4.1. FAIR Canada believes that while there is a considerable amount of valuable content provided by various independent, not-for-profit financial education organizations, the fragmented approach may cause confusion for Canadian financial consumers.
- 4.2. A single, unbiased, independent source of financial information may better serve financial literacy efforts. We perceive there to be considerable overlap and duplication between many of the sources that currently provide information. A single source could leverage resources and engage in a branding exercise which could heighten awareness and build trust with Canadians. The UK’s Money Advice Service is a great example of a successful model. It is important to ensure that information is delivered in a form that seniors can and will access (i.e. not limited to the internet).
- 4.3. Given the increasing complexity of investments and increasing complexity of financial services contracts, financial literacy efforts must recognize that there will be information asymmetry between those offering financial products and services and seniors who access them. A regulatory framework which reduces conflicts of interest and requires the provision of advice in the senior’s best interest would greatly assist Canadians in preparing financially for their senior years.

5. Goal 4 – Increase tools to combat financial abuse of seniors

- 5.1. FAIR Canada notes that the elderly, as a result of their accumulated wealth (often accumulated over their lifetime through hard work and prudent saving), are attractive targets for financial abuse. Combined with their increased likelihood of other

vulnerabilities, such as cognitive impairment and physical limitations, seniors are at risk of financial fraud.¹ They also have less time to recover from any financial loss.

- 5.2. In developing policy solutions, it is essential to understand the nature of the problem(s) intended to be solved. FAIR Canada is concerned that there is a dearth of information available in respect of financial fraud in Canada. We believe that a better understanding of the types of fraud that are perpetrated, the frequency of such frauds, the characteristics of the victims targeted, and profiles of the perpetrators would greatly assist in developing a framework to combat investment fraud (both for seniors and other Canadians).
- 5.3. While there are some tools available to assist Canadians in protecting against financial fraud, our understanding is that the utility of financial literacy in combating financial fraud is somewhat limited. Many scams mimic current trends and are difficult even for experts to identify. FAIR Canada believes that effective enforcement is essential to combating fraud, and has recommended improvements to the system in Canada.²
- 5.4. There are flags of investment fraud that Canadians should be made aware of (such as unrealistic investment returns).³ Heightened awareness of the need for registration in order to be permitted to sell securities would likely help some investors avoid fraud. However, FAIR Canada is concerned that the current registration check website is difficult for many investors to use and the information provided is difficult to understand. We have repeatedly called on Canadian securities regulators to improve this system.⁴
- 5.5. Organizations in other countries, such as AARP in the U.S., undertake a considerable amount of research to understand financial fraud in their jurisdictions. Indications are that the problem of fraud targeting the elderly in the United States is getting worse⁵ and there is no reason to suspect that Canada is any different. More research should be conducted in Canada and statistics should be tracked. Securities regulators should improve data collection and analysis efforts regarding enforcement actions and tips, complaints and

¹ The British Columbia Securities Commission published research in respect of fraud vulnerability among older Canadians in March 2012. The findings may be valuable in developing financial literacy initiatives relating to seniors and fraud vulnerability.

² See FAIR Canada's report, issued in February 2011, entitled "A Decade of Financial Scandals: FAIR Canada Calls for a National Action Plan to Tackle Investment Fraud" for recommendations.

³ However, research has found that many Canadians do not have realistic return expectations. See: Innovative Research Group, "2012 CSA Investor Index" (October 16, 2012), available online: <https://www.securities-administrators.ca/uploadedFiles/General/pdfs/2012%20CSA%20Investor%20Index%20%20Public%20Report%20FINAL_EN.pdf>.

⁴ See FAIR Canada's Open Letter to the CSA dated March 26, 2013, available online: <<http://faircanada.ca/wp-content/uploads/2013/03/130326-letter-to-CSA-re-natl-check-registration-day.pdf>>. See also our "Decade of Financial Scandals" report.

⁵ See the July 10, 2014 speech by SEC Commissioner Aguilar to the SEC's Investor Advisory Committee, available online: <http://www.sec.gov/News/Speech/Detail/Speech/1370542269061#.U8RGj_IdVp8>.

referrals involving elderly investors in order to be able to evaluate the scope of the problem.⁶

6. **General Issues**

Context Important

- 6.1. FAIR Canada believes that it is essential to set out the context within which all Canadians make important decisions related to their money in developing a financial literacy strategy. Financial literacy goals must be set and striven for with an appreciation of the incentives that drive the financial services industry and the channels through which consumers (including seniors) access services and financial products, including advice.
- 6.2. Many Canadians receive and rely upon investment advice from registered representatives.⁷ They receive this advice under the understanding that such representatives act in the client's best interests.⁸ However, this is not the legal standard in Canada. Concurrently with the financial literacy mission, Canadian regulators need to examine how conflicts influence the financial services and advice that investors receive.
- 6.3. In FAIR Canada's view, the increased vulnerability of some seniors warrants close consideration of a best interest standard for registered representatives in providing financial (including investment) advice.

Proficiency in Senior Issues Needed

- 6.4. In addition to the need to improve the financial literacy of senior Canadians, it is also important to recognize that many advice-providers may not have the skills and knowledge necessary to provide good advice to seniors. In particular, knowledge about how to plan for and execute a de-accumulation strategy is essential to the financial well-being of seniors. FAIR Canada is concerned that many representatives registered to sell securities in Canada may not have the necessary proficiency to assist seniors in the de-accumulation phase of their financial affairs.
- 6.5. Further, problems such as marketing of RRSPs to low-income Canadians (including low-income seniors) suggest inadequate proficiency or misaligned incentives of advice-

⁶ FAIR Canada has prepared a report that includes an outline of the lack of fraud data in Canada and the need for better fraud statistics. This report will be published shortly.

⁷ The Brondesbury Group, *Investor behaviour and beliefs: Advisor relationships and investor decision-making study* (2012) (prepared for the Investor Education Fund), online:

<<http://www.getsmarteraboutmoney.ca/en/research/Our-research/Documents/2012%20IEF%20Adviser%20relationships%20and%20investor%20decision-making%20study%20FINAL.pdf>>. This report found that 5 out of 6 investors in a qualified survey had a advisor relationship where the advisor makes recommendations and the client decides what to do.

⁸ *Ibid.* at page 2 and CSA Consultation Paper 33-403: *The Standard of Conduct for Advisers and Dealers: Exploring the Appropriateness of Introducing a Statutory Best Interest Duty When Advice is Provided to Retail Clients* (October 25, 2012), available online: <http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20121025_33-403_fiduciary-duty.htm>, particularly at 9581.

providers as such contributions may result in lower or no GIS payments and will result in increased taxable income in retirement. Some are advised to contribute to RRSPs when such contributions make them worse off in their working years with little to gain in retirement.

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 Neil Gross at 416-214-3408 (neil.gross@faircanada.ca) or Lindsay Speed at 416-214-3442 (lindsay.speed@faircanada.ca).

Sincerely,



Canadian Foundation for Advancement of Investor Rights