



Canadian Foundation *for*  
Advancement *of* Investor Rights  
Fondation canadienne *pour* l'avancement  
*des* droits *des* investisseurs

July 26, 2017

Alberta Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
Financial and Consumer Services Commission, New Brunswick  
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland and Labrador  
Superintendent of Securities, Northwest Territories  
Superintendent of Securities, Yukon  
Superintendent of Securities, Nunavut

Grace Knakowski  
The Secretary  
Ontario Securities Commission  
20 Queen Street West,  
22<sup>nd</sup> Floor  
Toronto, ON M5H 3S8  
Sent via e-mail to: [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

**RE: Canadian Securities Administrators (“CSA”) Notice and Request for Comment on Proposed National Instrument 91-102 *Prohibition of Binary Options* and Related Proposed Companion Policy**

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FAIR Canada is pleased to offer comments in response to the CSA Notice and Request for Comment (“the Notice”) on Proposed National Instrument 91-102 and the related proposed Companion Policy regarding the prohibition of binary options.

FAIR Canada is a national, charitable organization dedicated to putting investors first. As a voice for 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. FAIR Canada Supports CSA Proposal**

- 1.1. FAIR Canada fully supports the CSA’s proposal to prohibit the advertising, offering, selling or otherwise trading of binary options, or other products that use a different name but meet the

CSA's definition of binary options in the Notice. FAIR Canada believes that the proposed definition of "binary option" appropriately captures contracts and instruments that should be subject to this ban.

- 1.2. As the Notice states, the proposed ban of binary options is necessary to prevent binary options fraud in Canada. FAIR Canada supports the CSA's goal of raising awareness among investors that binary options are illegal, and to disrupt the advertising and facilitation of these products.

## **2. Binary Options are Dangerous Even Without Fraud**

- 2.1. FAIR Canada appreciates that the CSA's focus is, in particular, to deter and eliminate fraud that is associated with binary options. However, FAIR Canada would like to reiterate that binary options products are by their very design harmful for investors, particularly retail investors. We agree with the CSA's statement in the Notice that "non-fraudulent binary options also pose significant risks to individuals."
- 2.2. The CSA must push back on the efforts of those who wish to allow registered firms to trade binary options. These are high risk products that pose a danger to investors. The ability of firms to offer binary options to the public – particularly retail investors – should not be allowed. FAIR Canada supports the CSA's attempts to strengthen the status quo, by making it clear that offering, selling or otherwise trading a binary option is prohibited.

## **3. Areas to Improve Proposal**

### ***Enhance Enforcement***

- 3.1. FAIR Canada would like to see a stronger emphasis on utilizing enforcement tools in the Proposed Instrument. We recognize that many of the platforms responsible for binary options fraud are located offshore. However, for the Proposal to be truly effective, the CSA must prioritize working with other jurisdictions to help ensure that these platforms are disabled, to the greatest extent possible, before they make contact with Canadian investors. Coordinated enforcement action should also be taken against those who commit fraud, whether from within Canada or outside its borders.

### ***Eliminate 30 Day Period***

- 3.2. Binary options pose the same risks regardless of the time frame between when they were entered into and the predetermined condition being met, particularly for retail investors. A longer time frame does not necessarily remove the risk that dangerous binary options can still be entered into. FAIR Canada does not understand why the Proposed Instrument only applies to binary options where the predetermined condition is met within 30 days from the date the binary option is entered into. FAIR Canada recommends extending the 30 day period, or in the alternative, a satisfactory explanation as to why the CSA believes that the same risks posed to investors by binary options under a shorter time frame do not exist after 30 days.

**Improve System for Checking Registration**

- 3.3. FAIR Canada is pleased to see that Proposed Companion Policy 91-102 encourages all investors to check the registration of any person or company offering investment products through [aretheyregistered.ca](http://aretheyregistered.ca). However, as FAIR Canada has stated before, regulators must improve the system for checking registration and other background information of registrants in the interests of investor protection.<sup>1</sup>

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 Marian Passmore at 416-214-3441/[marian.passmore@faircanada.ca](mailto:marian.passmore@faircanada.ca) or Samreen Beg at 416-214-3442/[samreen.beg@faircanada.ca](mailto:samreen.beg@faircanada.ca).

Sincerely,



Canadian Foundation for Advancement of Investor Rights

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<sup>1</sup> See FAIR Canada's Open Letter to the CSA from March 26, 2013, online: <<http://faircanada.ca/wp-content/uploads/2016/02/130326-letter-to-CSA-re-natl-check-registration-day.pdf>> and FAIR Canada's Letter to the federal Minister of Finance dated November 15, 2016 at page 15, online: <[http://faircanada.ca/wp-content/uploads/2016/11/161115-Submission-on-Review-of-the-Federal-Financial-Sector-Framework\\_signed.pdf](http://faircanada.ca/wp-content/uploads/2016/11/161115-Submission-on-Review-of-the-Federal-Financial-Sector-Framework_signed.pdf)>.