

June/July 2020

FAIR Focus: Ontario's Capital Markets Modernization

FAIR Canada Presentation to the Ontario Capital Markets Modernization Task Force

Ontario's Capital Markets Modernization Taskforce ~ Attracting Investors to Ontario Capital Markets

We were invited by the Ministry of Finance (Ontario) to present to the Capital Markets Modernization Taskforce of the Ontario government that is conducting a review of securities regulation in Ontario. The Taskforce was [announced](#) in February and is currently engaged in discussions with key stakeholders in order to draft a public consultation paper to seek input from the public. The Taskforce mandate is to provide recommendations to the Ontario government on how to improve the regulatory structure to foster innovation, ensure a more level playing field for large and small market players and improve investor protection in Ontario. FAIR Canada provided a [presentation to the Taskforce](#) in early June.

Strong Regulation Leads to Strong Capital Markets & "Better Regulation"

We recommend the Taskforce ensure strong protections for investors in order to attract capital and ensure Ontario capital markets international competitiveness. Market integrity and investor protections are important factors to attract domestic and international investors. We provided the Taskforce with several examples of other jurisdictions where strong and



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effective regulation lead to strengthened capital markets and an example where the failure to establish proper standards in Canada resulted in multi billion dollars losses for Canadian investors.

We recommended that Taskforce endorse the concept of "better regulation" rather than simply endorsing reducing the regulatory burden on capital markets industry players. Better regulation is an internationally recognized concept that encompasses several objectives. It refers to ongoing efforts by the regulator to improve the way it regulates and delivers regulatory services, including burden reduction and improving efficiency, but does not stop there. It extends to improving regulatory effectiveness by ensuring regulation is proportionate to the needs, including streamlining regulation where possible but doesn't reduce the quality and standard of regulation.

FAIR Canada Recommendation on Compensation to Investors Harmed by Misconduct

Victims of financial misconduct in the capital markets in many cases suffer devastating losses. Access to justice for investors is inadequate. We recommended to the Taskforce that the Ontario Securities Commission (OSC) be given a clear mandate and the authority to order financial compensation to aggrieved investors. The successful system of regulators to order compensation for investors through enforcement proceedings in other countries, particularly the U.S., should be implemented in Ontario. Similarly, the self-regulatory organizations (SROs), the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA), should be required to prioritize compensation for investors who are victimized by misconduct of SRO dealers and advisors, and be more transparent in enforcement cases about whether there has been compensation and disgorgement. Finally, we recommend that OBSI be empowered to make binding orders for victim compensation. We noted that in 2019 the total compensation awarded by OBSI for both bank and investment related complaints for all of Canada for an entire year was less than \$2.7 million. The amounts are totally insignificant to financial institutions but of great importance to the victims of misconduct.

A focus on victim compensation by securities regulators will foster investor confidence in the integrity and fairness of Ontario's capital markets, which will lead to increased investment and strengthen the capital markets. The process for investors who seek financial compensation for such misconduct should be made more efficient and effective, and brought into line with international standards.

FAIR Canada Submission on the Restriction of Mutual Fund DSCs

In July, FAIR Canada made a written submission to the Ontario Securities Commission in response to its Request for Comments on a proposed rule to restrict the use of mutual fund deferred sales charges (DSCs). Deferred sales charges are an embedded, back-end fee charged to retail investors in mutual funds if they redeem within a set time frame (as long as 7 years in some cases). Many of the smaller investors that invest in mutual funds with DSCs are unaware of these charges.

The OSC's proposed rule on DSC's would see the time frame for charging DSCs limited to a period of 3 years. In addition, sales to investors over the age of 60 and to clients with a maximum account size of \$50,000. This contrasts with the plans by other securities regulators in Canada to ban DSCs in connection with the sale of mutual funds to retail investors.

FAIR Canada has long advocated against DSCs. FAIR Canada believes that these charges create inherent conflicts of interest that misalign the interests of investment fund managers, dealers and representatives with those of investors, which can impair investor outcomes. Research by the OSC's own Investor Advisory Panel indicates that many smaller investors receive little, if any advice from advisors. This advice is the primary justification for these charges.

More recently, in the wake of the COVID-19 pandemic, FAIR Canada has called on the financial services industry to waive and suspend DSCs for withdrawals and transfers between funds as a result of financial hardship. Many Canadians urgently need access to their savings as a result of this pandemic and related disruption to income. Waiving these fees at an unprecedented time when many Canadians need to tap into savings is the right thing to do and will benefit the industry in the long run.

A copy of FAIR Canada's comment letter to the OSC can be found [here](#)

Change in Board of Directors

FAIR Canada is pleased to announce that Robb Engen has joined its Board of Directors. Robb is the founder and head writer behind the award-winning [Boomer & Echo](#) personal finance blog. Launched in 2010, the popular blog has attracted more than 11 million page views and 10,000+

subscribers.

A staunch advocate for consumer and investor protection, Robb's writing and commentary have been featured on the Globe & Mail, Toronto Star, Financial Post, Global News, and CBC Marketplace. In addition to writing about personal finance and investing, Robb is also a fee-only financial planner for clients across Canada, focusing on retirement readiness and helping investors lower their fees.

It is with sadness that we announce that Pat Foran has stepped down from his position on the FAIR Canada Board of Directors. Pat was concerned that there might be a perceived conflict of interest between being a director and his role as a journalist and host of CTV's "Consumer Alert". We would like to take this opportunity to thank him for the contributions he made during his short time with us and wish him the very best in his role as a leading consumer advocate.

Resources to Apply for Hardship Exemptions

The continuation of COVID 19 emergency measures have strained the finances of many Canadians. Visit the [FAIR Canada website](#) for a list of resources available for taxpayer relief, reduction in RRMF withdrawals and mortgage deferrals for those enduring financial hardships at this time

Mutual Funds Redemption Fees: If your mutual funds are on a deferred sales charges schedule and are subject to redemption fees contact your advisor to find out if they or the mutual fund company have a financial hardship relief plan in place. If there is no plan or program in place, you may still be able to request relief. These requests are usually considered on a case-by-case basis and vary by advisor and mutual fund company. The CSA encourages firms to provide hardship relief.

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