

August 2020

## FAIR Focus: Vulnerable Investor Protections

### Recommendations to the CSA Regarding the Protection of Vulnerable Investors

In July, FAIR Canada submitted its comments on a recent proposal by Canadian securities regulators to protect vulnerable investors. This proposal is part of a securities regulatory effort to address financial exploitation of vulnerable clients and mental capacity issues.

FAIR Canada commends the Canadian Securities Administrators (the CSA) for its proposal. **This is an urgently needed measure to establish consistent minimum regulatory requirements and expectations for the securities industry.** When it becomes effective, it will provide clarity to firms, registered representatives and investors to protect older and vulnerable clients from financial exploitation. It is particularly important at the current moment in time. FAIR Canada expects that the COVID-19 pandemic will exacerbate challenges for many already vulnerable investors.

There are two key aspects of this proposal for investor protection. First, the proposal, as drafted, would require registrants to take reasonable steps to obtain the name and contact information of a trusted contact person (TCP). Second, the regulatory proposal will not stop firms from placing temporary holds on certain transactions in a client's account where the firm believes a client may be exploited or has mental capacity issues.

In addition to the measures that are proposed, FAIR Canada made a number of comments on the proposal to strengthen protections for vulnerable investors. In particular, FAIR Canada emphasized the importance of education, training and minimum proficiency requirements for firms and their staff in its comments



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to regulators. Such measures would help ensure effective identification and protection of vulnerable investors by firms. A copy of FAIR Canada's comment letter can be found [here](#)

This regulatory proposal builds on the work and research of many organizations. For example, in 2017, FAIR Canada partnered with The Canadian Centre for Elder Law (CCEL), a national non-profit organization dedicated to exploring legal issues that impact older Canadians, to produce a joint report on vulnerable investors. The report focused on elder financial abuse, undue influence and diminished capacity. A copy of the joint report by FAIR Canada and the Canadian Centre for Elder Law on vulnerable investors can be found [here](#)

## What's the Rush to Merge IIROC and MFDA?

In a letter published by Investment Executive, FAIR Canada special consultant, John Carson, questioned the push to fast-track the merger of IIROC and MFDA, "It is far more important to get the new model right than it is to arrange a shotgun wedding. FAIR Canada believes it is vital to address significant shortcomings in the way that the SROs currently operate before the regulators consider approving a new SRO", writes Mr. Carson. You can read the entire letter here [What's the Rush to Merge IIROC and MFDA?](#)

## Canadian Investor Protection Fund Launches "Investor Series"

**The Canadian Investor Protection Fund (CIPF) has recently launched an "Investor Series" on its website.** This series provides online resources to inform investors about CIPF's role in the Canadian financial ecosystem and can be found [here](#)

This series by CIPF is well-timed, when many investors are concerned about the economy and worried about the trustworthiness of their financial institution. CIPF protection helps to bolster confidence in the financial system.

To be eligible for CIPF coverage, an investor must first have an account at a CIPF member firm. CIPF coverage is custodial in nature - meaning that the coverage provided by CIPF does not extend to investment losses. In the event of an insolvency by a member firm, CIPF ensures that all clients of that firm are made whole for any missing securities, cash or other property not returned to clients.

**Many structured products and limited partnerships offered by related parties to the dealer are not eligible for CIPF coverage, even if held in an account with an IIROC firm. For example, clients of First Leaside Securities were not compensated for First Leaside Group (not an IIROC member) securities held in the First Leaside Securities Account.**

CIPF coverage does not extend to losses resulting from the following:

- A drop in the value of investments for any reason (including market volatility);
- Unsuitable investments;
- Fraudulent or other types of misrepresentations;
- Misleading information;
- Material information that was not clearly disclosed to investors;
- Poor investment advice; and
- The insolvency of an issuer of securities.

## **Wanted: Seniors Expert Advisory Members for OSC Committee**

On July 16<sup>th</sup>, the Ontario Securities Commission announced it was seeking members for its Seniors Expert Advisory Committee. The Committee, which consists of up to 15 members, provides the OSC with input on policy, outreach and investor education for Ontario's older investors. The Committee is chaired by Tyler Fleming, head of the OSC's Investor Office.

The deadline to submit applications is September 11, 2020. More details can be found [here](#)

## **FAIR Canada in the Media**

### **[FAIR Canada Backs OSC's DSC Proposals](#)**

An article in the July 7 edition of Wealth Professional highlighted FAIR Canada's response to the OSC's proposal to limit the use of DSC mutual funds and quoting FAIR Canada's letter to the OSC **[FAIR Canada urges suspension of DSC fees](#)** which they wrote about in March.

**[Open for business? Sure. DSC monkey business? No.](#)**

## [thanks](#)

James Langton's article in Investment Executive on July 10, considered FAIR Canada's concerns regarding the OSCs DSC preservation proposal

## [Regulators Need to do More to Protect Retail Investors](#)

Ermanno Pascutto, Executive Director at FAIR Canada was recently interviewed in the Globe & Mail. He spoke with investment reporter Tim Shufelt about the need for regulators to collect data on leveraged retail investors, deferred sales charges (DSCs) and the powers of the Ombudsman for Banking Services and Investments.

## [What's the Rush to Merge IIROC and MFDA](#)

As highlighted in this Month's Newsletter, FAIR Canada special consultant, John Carson, wrote an op-ed that was published in Investment Executive regarding the proposed merger of IIROC and MFDA.

## [IIROC Provides Funding for Investor Legal Aid](#)

Investment Executive published an article about the announcement that IIROC would provide funding to Osgoode Hall Law School's Investor Protection Clinic (IPC). The IPC was initially founded in partnership with FAIR Canada.

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**FAIR Canada calls on all Canadians** who value investor protections, shareholders rights, fairness and integrity of the capital markets to express their support for FAIR Canada and its mission, to show your support by subscribing to this newsletter and to help us reach more Canadians by asking your friends and colleagues to [subscribe](#).

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