

# Media Release:

## FAIR Canada statement on Ontario Capital Markets Modernization Taskforce Final Report

FAIR

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

---

TORONTO, Feb. 05, 2021 (GLOBE NEWSWIRE) -- FAIR Canada | The Canadian Foundation for Advancement of Investor Rights welcomes the recommendations made by the Ontario Capital Markets Modernization Taskforce Final Report.

"There are a number of recommendations that will appreciably benefit investors in Canada," said Jean-Paul Bureaud, FAIR Canada's Executive Director. "We applaud the work of the Taskforce, which has focused a light on a number of critical investor rights and protection issues."

While the Taskforce's focus is on Ontario's regulatory framework, we agree that many of its recommendations merit consideration by other governments and regulators. We believe that a harmonized approach, to the extent that it is possible, is better for Canadian capital markets.

Regarding compensating investors for losses arising from misconduct, we fully support making the Ombudsman for Banking Services and Investments' (OBSI) recommendations binding on capital market participants. The lack of binding authority is a serious gap in our current regulatory framework and the recommendation is long overdue. In addition to fostering greater confidence in the overall system, binding recommendations will raise Canadian complaint handling standards to a level enjoyed by investors in other countries.

We believe this issue also needs to be prioritized and implemented quickly. Moreover, we should not continue to be distracted by those in the industry who keep moving the goal posts or ignoring the positive findings of multiple independent expert reviews when it comes to OBSI's oversight, governance, and professionalism. Retail investors have waited far too long for meaningful action on this issue and deserve better.

We also support enhancing the governance and oversight of the IIROC and MFDA. Reforming the composition and selection of their Boards is important to rebuilding confidence that the SRO's serve the public interest, and not the interest of the industry. We welcome the Taskforce's recognition of the on-going CSA consultation about merging the two SROs and encourage the CSA to move forward quickly with a comprehensive reform proposal for public comment.

The Taskforce's recommendations about the product shelf are also very encouraging, particularly for retail investors. We believe that investors are better served by having access to a broader range of suitable products, as well as by an enhanced focus on conflicts when dealing with proprietary-only sale channels.

There are a few areas of concerns, however, that will need to be addressed as governments and regulators consider the Taskforce's recommendations. These include:

### **Compensation should not be limited to disgorgement orders only**

While we support the use of the OSC's disgorgement power to collect money to be distributed to harmed investors, we view it as a small step in the right direction. In our view, there is no justifiable reason why the OSC should not be able to order compensation in other situations, including where no ill-gotten gains are alleged or proven. At the end of the day, what matters most to a harmed investor is whether he or she will be financially compensated for their loss -- everything else is just talk. The fact that a market participant may not have personally profited from the investor's loss is of little comfort to the investor.

### **Investors should receive notification of regulatory disclosures**

We remain concerned with how the "access equals delivery" model will be implemented in practice, including whether documents such as Fund Facts will continue to be available at the point-of-sale. Moreover, the system should provide some choice to investors that cannot access or are not comfortable relying on digital-only means of communications. We also believe issuers should be required to issue a press release in most situations, and allow interested investors to subscribe to receive notifications of disclosure related documents posted on their websites.

Finally, we are left with several questions that should be clarified. These include:

### **What is envisioned by expanding how the OSC could use "designated funds"?**

We note that the Taskforce recommends that the OSC work with the Ministry of Finance to examine potentially expanding the uses of "designated funds" to support OSC's regulation of capital markets. We believe that the focus of any such review should be on expanding ways of returning money to harmed investors or supporting efforts to enhance investor rights and protections. The funds should not be used for operating purposes by the OSC, nor to subsidize or promote financial innovation or capital raising in Ontario. These funds are collected in cases involving harmed investors and should therefore be used for their benefit, and not for the benefit of industry or the regulator.

### **How will the OSC mandate be expanded?**

We have concerns with the recommendation to expand the OSC's mandate to encompass "fostering capital formation and competition." Part of our concern stems from the lack of details and analysis provided in the final report. We note that the U.K. Financial Conduct Authority's (FCA) focus is to "promote effective competition in the interests of consumers, not for its own sake." Nor is the UK FCA focused on growing the capital markets. Rather, growth is the by-product of effective competition. Given the importance the Taskforce placed on this recommendation, we believe the proposed wording to be adopted should be published for comment.

### **Will the Ontario version of the CMA be published for public feedback?**

The Taskforce recommends implementing an Ontario version of the draft *Capital Markets Act* (CMA) by the end of 2021. Given the importance of this draft legislation, we believe that the Ontario version of CMA should be published for public input before it is implemented.

### **About FAIR Canada**

FAIR Canada is a national, independent charitable organization dedicated to being a catalyst for the advancement of the rights of investors and financial consumers in Canada. As the voice of the Canadian investor and financial consumer, FAIR Canada advances its mission through outreach and education, public policy submissions to governments and regulators, proactive identification of emerging issues and other initiatives. FAIR Canada has a reputation for independence, thought leadership in public policy and moving the needle in the interests of retail investors and financial consumers.

For Further Information Contact:  
Jean-Paul Bureaud  
Executive Director, FAIR Canada  
[jp.bureaud@faircanada.ca](mailto:jp.bureaud@faircanada.ca)



Click [here](#) to join

FAIR Canada | [info@faircanada.ca](mailto:info@faircanada.ca) | <http://www.faircanada.ca>

STAY CONNECTED:

