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FAIR Focus: A Mixed Review for Ontario's Capital Markets Modernization Taskforce



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A Mixed Review for Ontario's Capital Markets Modernization Taskforce

As stated in our recent [press release](#), we applaud some, but not all, of the Ontario Taskforce's final recommendations to change securities regulations in Ontario. 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 highly harmonized approach, where possible, is better for Canadian capital markets.

We welcome the recommendations to give OBSI binding authority to award compensation to investors, widening the product shelf of dealers to give investors access to more suitable products, and reforming IIROC and the MFDA to ensure that the public interest animates everything the SROs do each day.

The Taskforce's recommendations, however, do not sufficiently address the rights of investors to be compensated when they are harmed by industry's misconduct. Further consideration is also needed to ensure that "access equals delivery" does not impede the right of investors to receive on-going information about the companies or funds they have or will be investing their savings with.

Other recommendations, including proposals to expand the OSC's mandate, change its structure and how it can use money collected from enforcement proceedings, or enacting a new *Capital Markets Act* in the province, raise concerns and critically important public policy questions that warrant further public input. Given that these changes will impact the capital markets in Canada for years to come, it is vital we have a robust, transparent, and broad public comment process to ensure we get them right.

GameStop and DIY investing: Lessons for investors?

The recent GameStop stock price run-up and fall provides an opportunity for Canadian investors to learn valuable lessons. Some Canadian investors may have gotten caught up in the frenzy. Anyone who invested at the high point is now having to deal with significant losses. One of the key lessons may be a keener awareness of the risks of trading on the basis of information from online chat rooms.

The CSA, the umbrella organization of provincial and territorial securities regulators, and IIROC, the industry self-regulatory organization responsible for supervising investment dealers in Canada, issued a **February 1, 2021 [press release](#)** that investors should use caution to consider the source of information and advice they are relying upon to make investment decisions. Online chat rooms are unregulated and may contain inaccurate or inappropriate information.

Many of the investors who bought GameStop during the recent frenzy were Do-It-Yourself (DIY) investors who invest using discount brokers, also referred to "order-execution-only" dealers. DIY investors should remember that, unlike investors who receive investment advice from a full-service investment dealer, DIY investors are responsible for their own investment decisions. While discount brokers often provide investment information and tools, they are not required to ensure that DIY investors receive suitable investment advice. The ability of DIY investors to receive compensation for losses when things go wrong is more limited.

Canadians have been opening DIY accounts in unprecedented numbers since the start of the pandemic and IIROC has seen a significant surge in inquiries and complaints from DIY investors. In response, IIROC recently reissued the [Investor Bulletin "Is a DIY account right for me?"](#) that is intended to help investors determine whether DIY investing is appropriate for them.

If you have an investment account and feel you've been wrongly treated by your investment dealer, you have a right to pursue a complaint and seek redress. You can complain directly to the dealer. You can also seek compensation through alternative dispute resolution services rather than the potentially much more expensive court system. The Ombudsman for Banking Services and Investments (OBSI) is a free, independent service for investment disputes that have not been resolved to your satisfaction by the dealer for amounts up to \$350,000. See [FAIR Canada's Consumer Investment Complaints Guide](#)

Client Focused Reforms Are Coming ~ Will Investors Finally Receive the Advice They Deserve?

As of the end of June and December 2021, long awaited improvements to securities regulations called the Client Focused Reforms will come into force. The reforms are intended to better align the interests of securities advisers, dealers and their representatives (registrants) with their clients so that products and services, in particular investment advice, are not compromised by conflicts of interest. The reforms will also amend the current regulations to add requirements that registrants must put their client's interest first when providing products, services and investment advice.

Oh. Shoot. In that case, could it be amended to read: "FAIR Canada recently [commented](#) on proposed amendments by IIROC to conform industry rules to the Client Focused Reforms. FAIR Canada also recently [commented](#) on proposed amendments by the MFDA to conform industry rules to the Client Focused Reforms. We encourage both of these industry self-regulatory organizations to take this opportunity to push and challenge the industry to set the bar higher and impose standards of conduct that require the industry to deliver services that serve their client's best interests. Investors place a great deal of reliance on and trust in their investment advisors. The investment industry should strive for "best in class" solutions.

FAIR Canada Is Adding To It's Bench Strength

We are pleased to welcome Kirshita Seevaratnam, who will be joining the staff of FAIR Canada as Policy Counsel starting on February 22, 2021. Kirshita joins FAIR Canada from the UK Financial Conduct Authority, the financial services and markets conduct regulator in the United Kingdom. We are excited to have Kirshita join us and look forward to her contribution to FAIR Canada's efforts to advocate for investor rights and be a catalyst for positive change within the Canadian financial services sector.

FAIR Canada in the News

FAIR Canada's comments on the Capital Markets Modernization Taskforce final report received media coverage from

[Wealth Professional](#)
[Investment Executive](#)
[Financial Post](#)

FAIR Canada Executive Director, Jean-Paul was quoted in the January 27, 2021 edition of the [Globe and Mail](#) regarding the binding authority of the Ombudsman

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