

FAIR

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

January 21, 2022

British Columbia Securities Commission
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
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

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CSA Request for Comment 11-343 – Proposal to Establish a CSA Investor Advisory Panel

FAIR Canada is pleased to provide our comments and recommendations on the above-referenced proposal to establish a CSA Investor Advisory Panel (“CSA IAP” or “Panel”).

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. It advances its mission through outreach and education, public policy submissions to governments and regulators, and proactive identification of emerging issues. FAIR Canada has a reputation for independence, thoughtful public policy commentary, and repeatedly moving the needle in the interests of retail investors and financial consumers.¹

¹ Visit www.faircanada.ca for more information.

General Comments

FAIR Canada is supportive of the proposal to establish the CSA IAP. If properly implemented and resourced, the Panel could serve as a helpful source of additional retail investor insight to inform CSA member regulation and policy development efforts. This would be a welcome addition to the perspective provided by investor advocacy groups and individual investors through the existing CSA notice and comment process and other stakeholder engagement efforts.

Ensuring that retail investor concerns are given thorough consideration in this process acts as an essential counterweight to the influence wielded by well-resourced and professionally organized industry lobbyists. Any effort that will help further level the playing field in this respect is one that we would encourage.

Panel Mandate and Budget

The draft CSA IAP Terms of Reference (ToR) and accompanying CSA Staff Notice (Staff Notice) indicate that the Panel will be expected to consult with and obtain input from investors to inform its advice and submissions. We agree that, to the greatest extent possible, the Panel's work should be supported by data to augment its own expertise. Moreover, the Panel should have access to behavioural insight expertise to help structure its interactions with investors and interpret the resulting data.

Obtaining funding for these efforts will be key to the Panel's ability to meet these expectations effectively. In this regard, we recommend that Article 10 of the ToR be clarified by specifying that the Panel will be provided with a yearly budget, rather than simply stating that the Panel "may make funding requests to the CSA".

The above-recommended clarification would align the ToR with language in the Staff Notice and be consistent with the ToR of the Ontario Securities Commission (OSC) IAP.

Further, we note that the Panel's ToR limits its ability to provide advice and commentary to:

- existing and proposed national and multilateral instruments and policies; and
- concept papers and discussion drafts.

We recommend that this list be expanded to include commenting and advising on CSA Business Plans and the equivalent plans of CSA members. Given their importance in shaping the regulatory and policy agenda, commenting and advising on these plans should be specifically noted in the Panel's mandate, as is the case with the OSC's IAP, for example.

CSA Obligation to Engage the Panel

The draft Panel ToR only requires the CSA to provide guidance and assistance to the Panel and respond to “official communications” from the Panel. There is no positive obligation for the CSA to consult the Panel on relevant issues.

To ensure that the Panel is proactively engaged when relevant and as early as possible in the policy and regulation development process, the ToR should be amended to require the CSA to consult the Panel on any issues relevant to retail investors.

In addition to enhancing the Panel’s effectiveness, this would better align with practices adopted in other jurisdictions. For example, the mandate of the UK’s [Financial Services Consumer Panel](#) includes a positive obligation for the Financial Conduct Authority to consult the Panel “**throughout its deliberations** on policies and practices that have a consumer impact” (emphasis added).

Panel Member Qualifications

FAIR Canada is generally supportive of the proposed areas of expertise for Panel members as listed in the Staff Notice. We recommend that expertise in behavioural research related to investing and decision-making be added to the areas listed.

Conclusion

We thank the CSA for the opportunity to provide our comments in this submission. We look forward to engaging with the Panel as it works to add valuable insight into issues that matter to retail investors. We would be pleased to discuss our submission should you have questions or require further explanation of our views. Please contact me at jp.bureaud@faircanada.ca.

Sincerely,



Jean-Paul Bureaud,
Executive Director