

INVESTOR ADVISORY PANEL

July 23, 2019

By E-mail

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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 Service Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Re: CSA BUSINESS PLAN | 2019-2022

I am writing on behalf of the OSC's Investor Advisory Panel (IAP) to acknowledge and commend the recently released CSA Business Plan 2019-2022. The IAP is an initiative by the Ontario Securities Commission to enable investor concerns and voices to be represented in its rule development and policymaking process.

When reviewing the CSA Business Plan, we particularly appreciated the priority it accorded to investor protection initiatives. In our view, the CSA has appropriately ranked improving investor protection and enhancing investor education and awareness as the two most important responsibilities that Canadian securities regulators face at this time. We also feel you have articulated a worthy set of initiatives to fulfil them.

We have two requests that we would like you to consider when developing and executing these initiatives.

First, we ask the CSA to expedite its policy development and implementation process. Roll-out of the Business Plan will take place in the context of the CSA working to eliminate undue regulatory burden and streamline regulatory requirements. In this context, we urge the CSA to update and streamline its own process of policy development and rulemaking. The current process is too time-consuming and resource-draining, too tolerant of repetition of arguments and, despite (or perhaps because of) good intentions to “get things right”, it sometimes lacks an appropriate sense of urgency.

A slow-moving policy process is burdensome for all stakeholders. Investor advocates lack the resources to wage protracted campaigns, and investment firms end up bearing the opportunity costs associated with uncertainty as well as the operational distractions that come from prolonged debate and delayed regulatory decisions. More importantly, however, it is the investing public that bears the greatest burden when reforms aimed at safeguarding investors are delayed – they remain at risk, and in the interim some get harmed. That is a burden we believe the CSA can significantly mitigate by using a more streamlined and expedited process for policy development and implementation.

Our second request is that you review and consider the findings of a survey we recently commissioned on Investor Advice (see attached) before you finalize the CSA’s position on prohibiting continued use of embedded trailing commissions. The survey results raise significant questions about whether, despite the current pervasiveness of embedded compensation payment schemes, most small and mass-market investors actually have access to advice sufficiently comprehensive, timely and effective to meet their needs. We believe, therefore, that the oft-repeated concerns about a prohibition on embedded compensation depriving small and mass-market investors of valuable investment advice ought to be evaluated in this context. Our hope is that the data will prove useful to you for that purpose and, ultimately, for assessing how best to eliminate the known harms associated with the payment of trailing commissions and other forms of embedded compensation.

In closing, we wish to reiterate our support for the CSA Business Plan 2019-2022 and your commitment to investor protection. Please let us know if you require any further information or clarification from us.

Yours truly,

Neil Gross
Chair, Investor Advisory Panel