

2019 ANNUAL REPORT
OF THE ONTARIO SECURITIES COMMISSION'S
INVESTOR ADVISORY PANEL

APRIL 2020

Introduction

We are pleased to present the 2019 Annual Report of the Investor Advisory Panel (IAP), outlining our research projects, submissions, consultations, meetings and other activities during the calendar year.

Since its formation in 2010, the IAP has been committed to identifying and advocating for the needs and concerns of Ontario savers and investors. We have worked closely with staff of the OSC's Investor Office and other departments to address existing and emerging areas of concern and risk for retail investors at every stage of the policymaking process – from issue identification to policy development to commenting on new rules and regulations once they have been proposed for implementation.

Input and engagement from retail investors is essential to achieving a fair and balanced regulatory regime. At all times, the IAP strives to be a useful conduit for that input. We also serve as a sounding board for the OSC as it develops and administers rules that protect investors and promote fair and efficient capital markets.

How the Investor Advisory Panel Works

The Panel provides input to the OSC at three stages in the regulatory process:

Stage 1

Issues Identification

We identify investor needs and concerns to inform OSC policymaking at the earliest stages. We do this by sharing our perspectives and insights in meetings with key OSC staff and, where appropriate, we follow up with specific recommendations to the Commission.

Stage 2

Input on Policy Development

We provide the OSC with ongoing input on regulatory policy initiatives as they are developed and refined.

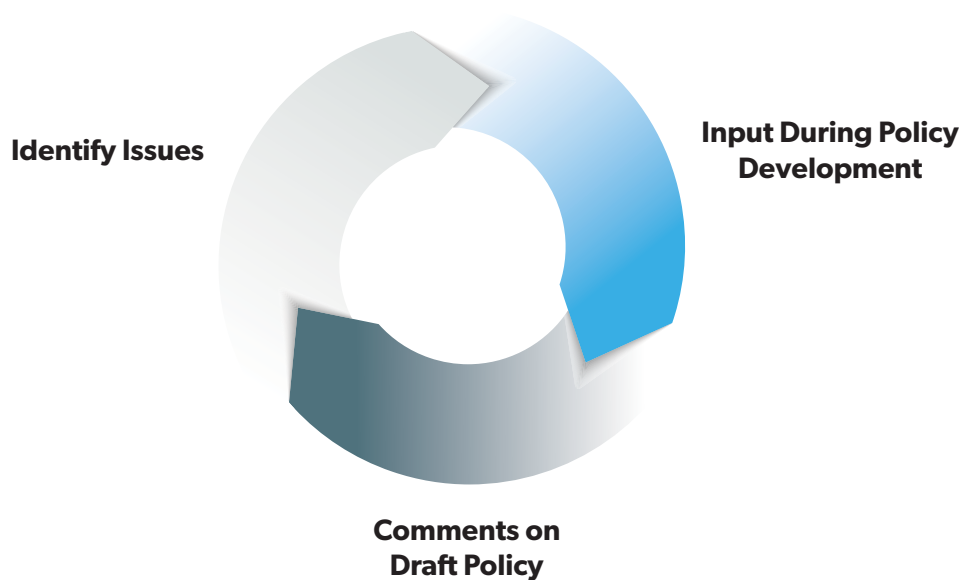
Stage 3

Policy Proposals and Discussion Papers

We regularly comment, from an investor perspective, on policy proposals when they are released.

The IAP brings an investor voice to policymaking

How the IAP Engages with the OSC



Key numbers for 2019

12

Meetings

6

Submissions
and letters to the
OSC/CSA

5

Submissions to
other bodies

19

Meetings
with external
organizations

2019 in Review

During the year we raised several key issues important to investors through our submissions, meetings, and in our own research.

Key issues addressed:

The Quality and Quantity of Investment Advice

In March 2019, the IAP engaged Innovative Research Group to conduct an online survey of over 3,000 Canadian adults regarding the quality and quantity of investment advice they received. Our report on the results of that survey, entitled [“A Measure of Advice: How much of it do investors with small and medium-sized portfolios receive?”](#), was published on July 29th. Its findings revealed that:

- Most advised investors have received some advice from their advisors on important investment topics but in many cases basic topics were not addressed.
- In most cases the frequency of communication from advisors was low and the duration of this communication was quite limited.

We commissioned this survey to obtain empirical data on the scope, timeliness and effectiveness of the advice that many investors receive. This research is intended to provide policymakers with relevant empirical evidence to evaluate the merits of trailing commissions and other forms of embedded compensation. It specifically addresses the extent and nature of advice that investors with small and medium-sized portfolios stand to lose if trailing commissions are banned.

The Horizon Project: Disruptive Trends in the Investment Space

From technology to investment product and service innovation, several potentially disruptive trends are changing the investment landscape. To understand what impact these developments could have – both positive and negative – on retail investors, the IAP has undertaken a multi-year project to engage with and learn from individuals and organizations at the forefront of these changes. We have met and spoken with investor advocates, policymakers, senior fintech executives and representatives of major banking and investment management firms to get their perspective on the disruptive forces and related opportunities and challenges they see impacting investors going forward.

Our goal is to understand the nature and extent of these emerging changes so that we can evaluate two things: whether existing regulations are adequate to protect investors from potentially harmful change, and how regulators can best ensure investors gain from potentially beneficial change. The Horizon Project will enable us to evaluate, from an investor's perspective, the appropriate regulatory stance given the shifting investment landscape.

Investor Outcomes

In May, [we commented](#) on the OSC's *Draft Statement of Priorities for 2019-2020*. We supported the commitment to improve the retail investor experience but noted that investor protection should remain a primary focus for the OSC. As we stated, "The IAP believes investor protection always needs to be front and centre in OSC policymaking and we encourage the Commission to reconfirm the centrality of investor protection to all activities of the OSC by reinstating it as a key priority – indeed, the first priority – in the final version of the SoP."

Client-Focused Reforms

In the same response to the *Draft Statement of Priorities*, we urged the OSC and other Canadian regulators to move more quickly to implement client-focused reforms. Recognizing that the reforms fell short of adopting a best interest standard, we pointed out that they did constitute an improvement over the status quo and needed to be implemented as quickly as possible: "...the time for consultation has long-since passed and it is now time to move forward with concrete changes that will protect investors and improve outcomes."

Regulators and governments across Canada have now approved these reforms, and we look forward to their implementation and rigorous enforcement.

High-Risk Mortgage Investments

In September we commented on a proposed new approach from the Financial Services Regulatory Authority for oversight of syndicated mortgages. [Our input](#) on *Proposed Supervision Approach for High-Risk Syndicated Mortgage Investments – ID 2019-002* identified several inadequacies in the proposal, particularly its heavy reliance on disclosure.

As we stated in our comment letter: "Disclosure is important for transparency, but it is useful only to a small segment of investors – those who are sophisticated enough to understand the significance and implications of the information disclosed." In the absence of a more robust, targeted approach, disclosure will not be effective.

Issuer Disclosure

In February we raised concerns about the ongoing deficiencies with issuer continuous disclosure. In [our letter](#) to OSC Chair and CEO, Maureen Jensen, we noted that in seven of the last nine years, more than half of all disclosures examined by securities regulators in Canada were found to be deficient to some degree. Also, restatement and refiling have been ordered on average, in nearly 17% of cases annually – and it has exceeded that level in three of the last four years. These findings indicate that Canadian investors are regularly at risk of being misinformed and misled by deficient issuer disclosure. We urged the OSC to examine this risk and reevaluate the current approach in order to improve compliance with continuous disclosure requirements.

Burden Reduction

In [our response](#) to OSC Staff Notice 11-784 - *Burden Reduction* we noted that a review of rules and processes should be focused on identifying needless red tape and unnecessary regulations and not on diminishing investor protection or market integrity. We urged the OSC, notwithstanding this review, to move forward with the implementation of the client-focused reforms, as proposed, and to continue its efforts to eliminate embedded commissions.

Enforcement

In another [February letter](#) to Maureen Jensen, we raised our concerns over the absence of a comprehensive nationwide system for reciprocal enforcement of bans and suspensions issued by financial services regulators, including self-regulatory organizations (SROs). We recommended that the OSC initiate discussions with all CSA members and Canadian financial regulators to introduce the reciprocal imposition of bans and suspensions across the country and across all areas of financial services. As we stated, “no one who lacks integrity or who has proven themselves ungovernable should be permitted to provide financial services of any sort, nor should they be allowed to advise the public about any type of investment.”

We also [responded](#) to the Investment Industry Regulatory Organization of Canada’s (IIROC) *Proposed Rule Amendments for Minor Contravention Program (MCP) and Policy Statement on Early Resolution Offers*. We raised concerns that the proposals could jeopardize core principles such as transparency and accountability. We were not convinced that the Minor Contravention program would lead to greater efficiency – rather, we felt it could undermine investor protection.

As we wrote: “In effect, the proposal creates a “secret” disciplinary record that potentially can be considered by all stakeholders to evaluate the Approved Person’s proficiency and trustworthiness – by all, that is, except the public.”

OBSI

The challenges facing the Ombudsman for Banking Services and Investments remained an ongoing concern for the IAP. In [our response](#) to *CSA Staff Notice 31-355 - OBSI Joint Regulators Committee (JRC) Annual Report for 2018*, we again highlighted the issue of low-ball settlements and OBSI's ongoing lack of binding authority in its decision-making. We urged the JRC to take the steps necessary to provide OBSI with binding authority, at least for complaints involving amounts of up to \$50,000.

Investor Representation

In [our response](#) to Proposed Amendments to *MFDA By-law No.1 - Sections 3.3 (Election and Term), 3.6.1 (Governance Committee), 4.7 (Quorum)* we commented on the Mutual Fund Dealers Association's (MFDA) review of its corporate governance structure. We expressed disappointment that the MFDA's proposal did not address the inherent asymmetry of stakeholder representation in its governance structure. We stated that refinement of qualification standards for public directors was needed, as well as a commitment to ensure that the MFDA's board always includes directors with a deep understanding of retail investors' experience and concerns.

We are pleased to see indications of growing awareness of the importance of more representative SRO governance structures. IIROC recently announced that it is implementing a skills matrix for its Board that incorporates investor expertise. The MFDA has also acknowledged the need to reflect investor perspectives and experience in the Board's skill set in any future restructured SRO.

Crypto-Assets

Throughout 2019, we invited experts to share with us their views on the role technology is playing in the investment space, whether through the provision of robo-advice or through the rise of new asset classes such as crypto currencies. In [our response](#) to *Consultation Paper 21-402: Proposed Framework for Crypto-Asset Trading Platforms*, we expressed support for the creation of a sound regulatory framework to govern the exchanges and marketplaces available to investors for trading crypto-assets. We added a further recommendation that regulators look to other jurisdictions for best practices in this area including Australia and Japan.

Conferences and Roundtables

Throughout the year we consulted with stakeholders by speaking at and attending many conferences and roundtables on topics such as financial stability, innovation in retail investing, financial planning, and issues pertaining to regulation. These events are central to our consultation role and help us understand and engage with organizations that serve retail investors throughout Canada.

The Year Ahead

Currently, the IAP is closely monitoring the impact of the COVID-19 global pandemic on financial markets and, in turn, investors. It will take time to identify and understand the implications for investors, especially given the unprecedented nature of the situation. We will monitor these developments very closely and work with policy-makers and regulators to identify concerns and develop appropriate responses as this situation unfolds.

At the same time, the IAP will continue to push for meaningful change in other areas relevant to investors. Of particular importance will be the timely implementation of the client-focused reforms and improvements in processes to secure redress for harmed investors.

This year Canadian regulators announced a ban on trailing commissions being paid to order-execution-only dealers, and nearly all jurisdictions will ban the use of deferred sales charges (DSCs). We support and applaud these regulatory decisions on trailing commissions and DSCs, and we recently submitted comments on Ontario's proposal for alternatives to a ban on DSCs in this province.

In the year ahead, the IAP will seek to play an important role in providing commentary and feedback related to the OSC's burden reduction efforts. We will continue to urge the OSC to examine and update its own process of policy development and rulemaking so it can bring matters to completion and implementation more swiftly.

We also will continue encouraging regulators to pursue more efficient and timely policy development processes including, when appropriate, the use of stakeholder councils. The IAP will closely monitor how regulators respond to the challenges and opportunities that the coming months inevitably will pose for savers and investors. We will be particularly vigilant in trying to identify products, strategies and initiatives that pose potential risks or harm to retail investors.

We confront a very uncertain and challenging year ahead but what we can say with certainty is that the IAP remains committed and determined to advocate responsibly on behalf of investors.

About the IAP

The IAP is an independent advisory panel to the Ontario Securities Commission.

Our Mandate

Our mandate is to solicit and represent the views of investors on the Commission's policy and rule making initiatives. In order to fulfill our mandate, the IAP will:

- Advise and comment in writing on proposed rules, policies, concept papers and discussion drafts, including the Commission's annual Statement of Priorities;
- Consider views representative of a broad range of investors through consultation with and input from investors and organizations representing investors in formulating its advice and written submissions to the Commission;
- Bring forward for the Commission's consideration policy issues that may emerge as a result of the IAP's investor consultation activities and comments on the potential implications for investors posed by those issues; and
- Advise and comment in writing on the effectiveness of the investor protection initiatives implemented by the Commission.

Investors are welcome to contact the IAP by email at:

iap@osc.gov.on.ca or by writing to:

Investor Advisory Panel
c/o The Investor Office
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Our Membership

The IAP is comprised of nine members appointed by the Chair of the Commission following a public application process and on the advice of a selection committee consisting of two Commissioners and a Vice-Chair. Members of the IAP are appointed for terms of up to two years, with possible reappointment for one additional term.

How We Operate

The IAP meets monthly, either in person or by conference call. We maintain frequent contact between meetings to develop our written submissions and to share and exchange views on developments in securities law and other relevant matters. During our meetings, we discuss upcoming submissions and plans for future outreach, research and consultation.

Our work plan is set to a large extent by the Commission's priorities and current developments in the investment industry. Our meeting agendas often will focus on specific OSC initiatives, including the Commission's annual Statement of Priorities and business plan, policy and rule proposals, and ongoing or under-development investor protection initiatives.

Independence

The IAP conducts its activities without direction or influence from the Commission.

The OSC Investor Office serves as the general liaison between the IAP and the Commission and serves as secretariat to the IAP. The Investor Office provides administrative support to IAP activities and facilitates our requests for staff briefings or research information conducted by, or available to, the Commission on specific policy and rule-making initiatives.

Transparency

Transparency of our work is important. We provide regular reporting through our [Investor Advisory Panel website](#), through our published reports, submissions, letters to the Commission and our Annual Report. We publish all meeting agendas on our webpage.

Consultations

To assist us in fulfilling our mandate, we regularly consult with organizations and financial and legal experts, industry associations and investor advocacy bodies.

IAP Members – 2019

Jacqueline Allen

Jacqueline Allen brings 25 years of experience in capital markets and financial services including tax, accounting and risk management. Her professional career spans from New York to Toronto with roles at KPMG, SK Group, and Bank of America Merrill Lynch. Ms. Allen most recently served as the Head of Portfolio and Electronic Trading Sales at Bank of America Merrill Lynch Canada, with a focus on institutional asset managers, pension funds and mutual funds investors.

Ms. Allen holds an MBA from the New York University Stern School of Business.

Patti Best

Patti Best is a former senior executive in the investment industry, bringing over 40 years of experience from client-facing senior-level positions with brokerage firms, mutual fund dealerships and investment fund companies. She has a diverse background in client relations, investment product operations and administration, as well as systems and product development.

Daniel Brunet

Daniel Brunet is a National Director on the Board of the National Association of the Federal Retirees since 2017. He is a lawyer with over 40 years of experience and previously served on the Disciplinary Council and Equivalences Committee of the Quebec Bar. Prior to his retirement from the Federal Public Service in 2014, he held various positions including: Director of Legal Services at the Office of the Information Commissioner of Canada and Crown Prosecutor for Gouvernement du Québec and the Attorney General of Ontario.

Neil Gross, Chair

Neil Gross is a capital markets policy consultant and former executive director of the Canadian Foundation for Advancement of Investor Rights (FAIR Canada). He is a lawyer with over 35 years of experience focusing on investor protection issues.

Mr. Gross also serves as a director of a portfolio management firm, a member of a mutual fund company's independent review committee, a member of the Vulnerable Investor Task Force convened by the Investment Funds Institute of Canada and a member of the selection panel for the Portfolio Management Association of Canada annual award of excellence in financial journalism.

Malcolm Heins

Malcolm Heins is the former Chair of the Ontario Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives, and the former CEO of the Law Society of Upper Canada. He is currently a director of Lawyers' Professional Indemnity Company, the Ontario Municipal Insurance Exchange, Cancer Care Ontario and a lawyer with over 40 years' experience, over which he has received numerous awards for his contribution to the legal profession, including the Law Society Medal from the Law Society of Upper Canada and the Metro Toronto Lawyers Association Award of Distinction.

Harvey Naglie

Harvey Naglie holds over 40 years of experience in both the public and private sectors, with a focus on financial services. He is a former Senior Policy Advisor for the Ontario Ministry of Finance's Financial Services Policy Division, where he participated in developing and implementing policies related to securities regulation and investor protection.

Mr. Naglie holds an LL.M. in securities law from York University, an MBA from the University of Western Ontario Ivey School of Business and an MA in economics from Johns Hopkins University. Mr. Naglie is a member of OBSI's Consumer and Investor Advisory Council.

Ilana Singer

Ilana Singer is the Vice-President and Corporate Secretary at the Canadian Investor Protection Fund. She is Chair of the Toronto Centre (TC) Securities Advisory Board, and a long serving multilingual TC Program Leader. She also serves as a Securities Expert for the International Monetary Fund, and was previously Chief Operating Officer and Deputy Director at FAIR Canada.

Ms. Singer has also held several positions at the OSC, including: Senior Advisor, International Affairs and Legal Counsel, Corporate Finance. She began her career over 20 years ago at McMillan LLP.

Incoming Members

Serge Kalloghlian

Serge Kalloghlian has been a lawyer for over 10 years, with a litigation practice focusing on class actions and investor rights advocacy. He has represented harmed investors in securities class actions and other investor rights litigation at all levels of Ontario's courts and the Supreme Court of Canada.

Leslie Wood

Leslie Wood is a Chartered Professional Accountant and former senior executive in the investment fund industry bringing over 25 years of experience. She has successfully completed several mutual fund acquisitions, product re-engineering, systems integration and conversions, brand and distribution development, and oversight of all back-office operations and new product launches.

Ms. Wood retired in 2016 and now serves on multiple Independent Review Committees.

Outgoing Members

We extend our thanks and recognize the service of the following outgoing members:

Larry Bates

Paul Bates

The IAP in 2019

Consultation – External Organizations

Bank of Canada

- **Scott Hendry**, Senior Special Director, Financial Technology

BlackRock

- **Margaret Gunawan**,
Managing Director, Head of Canada Legal & Compliance

British Columbia Securities Commission (BCSC)

- **Doug MacKay**, Manager, Capital Markets Regulation

CARP

- **Marissa Lennox**, Chief Policy Officer

CFA Societies Canada

- **Michael Thom**, Managing Director

Edward Jones

- **David Gunn**, Country Leader, Canada
- **Hugh Corbett**, Associate General Counsel

Fair Canada

- **Ermanno Pascutto**, Interim Executive Director

Investment Industry Regulatory Organization of Canada (IIROC)

- **Andrew Kriegler**, President & CEO
- **Elsa Renzella**, Senior Vice-President,
Registration and Enforcement
- **Kathy Engle**, Vice-President, Strategic Initiatives
- **Marsha Gerhart**, Vice-President, Member Regulation Policy

Independent Review Inc.

- **Michèle McCarthy**, President & CEO

The Investment Funds Institute of Canada (IFIC)

- **Paul Bourque**, President & CEO
- **Carolyn Quick**, Vice-President, Public Affairs

Ivey Business School

- **Prof. Chuck Grace**

Kenmar

- **Ken Kivenko**, President & CEO

Mutual Fund Dealers Association (MFDA)

- **Mark Gordon**, President & CEO
- **Karen McGuinness**, Senior Vice-President, Member Regulation, Compliance
- **Shaun Devlin**, Senior Vice-President, Member Regulation, Enforcement
- **Paige Ward**, General Counsel, Corporate Secretary & Vice-President Policy
- **Ian Strulovitch**, Director, Public Affairs

Nest Wealth

- **Randy Cass**, President & CEO

Ombudsman for Banking Services and Investments (OBSI)

- **Sarah Bradley**, Ombudsman & CEO
- **Mark Wright**, Director, Communications & Stakeholder Relations

Portfolio Management Association of Canada (PMAC)

- **Katie Walmsley**, President

Resolver

- **Tom Smith**
- **Peter Wright**

Vanguard Investments

- **Kathleen Bock**, Principal & Head of the Americas Region
- **Mario Cianfarani**, Head of Institutional & Retirement Distribution

Consultation – Ontario Securities Commission Staff

Discussed the following topics:

- Bans on Sale of Certain Investment Products to Retail Investors
- Client-Focused Reforms
- Civil Remedies and Receiverships
- Deferred Sales Charges
- Enforcement Tools and Powers
- Financial Literacy and Investor Education
- IAP Mass Market Survey
- Investor Advocacy in Canada
- Improving the Investor Experience
- Liquid Alternative Funds
- Ombudsman for Banking Services and Investments (OBSI)
- Oversight Review - IIROC
- Oversight Review - MFDA
- Promotional Activities by Issuers
- Regulatory Burden Reduction
- Investor Protection Funds
- Investor Research
- Securities Lending by Mutual Funds
- Seniors Issues
- Self-Regulatory Organization (SRO) Regulatory Framework
– CSA Consultation
- Self-Regulatory Organization (SRO) Rule Proposals
– CSA Oversight
- Short Selling and Market Manipulation
- Syndicated Mortgages
- Vulnerable Investors

The IAP met with the following branches:

- Compliance and Registrant Regulation
- Corporate Finance
- Derivatives
- Enforcement
- Executive Office
- General Counsel's Office
- Investment Funds and Structured Products
- Investor Office
- Market Regulation
- Office of Mergers & Acquisitions

Submissions and Letters

- October 30, 2019
[Joint Regulators Committee re: JRC Annual Report for 2018](#)
- September 5, 2019
[FSRA Re: Proposed Supervision Approach for High-Risk Syndicated Mortgage Investments](#)
- July 23, 2019
[Request for Comment on Proposed Amendments to MFDA Rule 2.3.1\(b\) \(Discretionary Trading\)](#)
- July 23, 2019
[CSA Business Plan 2019-2022](#)
- May 31, 2019
[IIROC's Request for Comment re: Minor Contravention Program and Early Resolution Offers](#)
- May 27, 2019
[OSC Draft Statement of Priorities for 2019-2020](#)
- May 14, 2019
[OSC's Investor Advisory Panel Releases 2018 Annual Report](#)
- May 2, 2019
[Request for Comment on Proposed Amendments to MFDA By-law No.1 – Sections 3.3 \(Election and Term\), 3.6.1 \(Governance Committee\), 4.7 \(Quorum\)](#)
- February 28, 2019
[OSC Staff Notice 11-784 - Burden Reduction](#)
- February 19, 2019
[Reciprocal Enforcement of Bans and Suspensions](#)
- February 14, 2019
[Issuer Continuous Disclosure](#)

