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Ontario Securities Commission

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Consultation on the OSC 2023-2024 priorities

I hereby welcome this opportunity to add my voice to said very prescient important consultation. With the propitious and right priorities, retail investor protection is enhanced, otherwise it is not.

The expansion of the OSC's mandate to add fostering capital formation (and focus on " burden" reduction), has clearly led to a proliferation of too many #1 priorities, which in turn creates two major investor protection risks: (1) nothing gets completed in a timely manner when the agenda is jammed up and (2) that so many of competing mandates ultimately yield assemblages of conflicting priorities and human resource misallocation . The 2023-24 priorities list does not increase public perception**:** investor protection is dominant tone at the top.

The Ontario Auditor General released a Report on the OSC. In its Audit Report, the OAG stated:

1. **In part because of government intervention and heavy financial-industry lobbying,** it will have taken more than a decade to ban "deferred" sales charges, and partially ban "trailing commissions" (effective June 2022) - all which have been completely banned in the UK and Australia since 2012*. In just f4 years (2016-2020), these sales practices have cost Ontario investors an estimated circa $13.7 billion in " unearned additional commissions".*

2. Said audit also found**:** that although the OSC imposed fines between 2011/12 & 2020/21 amounting to $525 million, it had collected only 28% of those monies. Unlike the BC securities regulator, **OSC:** does not have the power to seize assets to collect any unpaid fines. <u>The lack of effective enforcement tools has hindered the OSC in deterring wrongful conduct by unregulated companies and individuals. The Legislature needs to step in & adjust the laws regarding same.</u>

3. Even when OSC does manage to collect money fines for the fund that can be used to compensate investors who were harmed howsoever, nevertheless - it does not pay out much of said money collections to benefit the interested investors. **Between 2016/17 & 2020/21 - OSC it paid out only 6% to 11% of said collected monies for one year, and no more. Where did the remainder go? That should be known by the general public - in that the OSC is a regulatory body.**

What does the OSC intend to do (if anything) to rectify these material regulatory shortcomings & thereby address the 26 OAG's proposed recommendations - and when? That is a fair query in the public interest - given the OSC is a de facto regulatory body for the government for the benefit of the people - also for law enforcement for such.

While the Priorities mention technological innovation impacting financial markets, I believe there is a need - to evaluate whether financial regulators are adequately resourced to oversee such innovation. Complex skill sets with combining due knowledge of regulatory requirements, computer science (e.g. AI) and data processing - are **required** to well-ensure this innovation supports fair and efficient capital markets with competition, while always providing robust investor protection.

Based on many recently issued consultation papers, I'm not convinced. For example, "access equals delivery" proposes old-fashioned News Releases instead of modern communication tools, like email and texting - to modernize shareholder disclosure, all the while keeping in mind that most of the investors are hardly tech savvy - ergo depending upon the OSC.

One of the most needed regulatory improvements retail investors need and which is required - is a fair and professional standard complaints handling system that meets the needs of Ontarians as a matter of conduct for the OSC - and others.

T**he current system** is antiquated, lagging behind other countries such as Australia & UK and benefits Bay Street only. Thus introducing a modern & recent times complaint handling system should be an irrefragable top priority for the OSC.

Monitoring of New SRO implementation: This should be a very high priority as the consequences of a breakdown during the consolidation could be very harmful to investors not only via intention - this is politics as much as anything else. My own concern is amplified**:** because of the fact that all the registrants are simultaneously implementing CFR. This would be more comforting if the SRO Investor Office & Investor Advisory Panel were in place at all material times - with no failures allowed.

CRM3 Total cost reporting should be a top priority in that (on-going) investing costs are one of the most impactful determinants of portfolio performance from all investors' viewpoints, including their independent advisors regarding same. In Canadian, mutual funds remain a very expensive product compared to ETF's. More visibility on costs & safety will assist to increase competition in Ontario, enhance investor outcomes & even increase sales, plus assist in reducing regulatory arbitrage. "Implementation" thereof should not be delayed if the insurance industry, for whatever reason, is unable to keep pace with the OSC target date April, 2023.

The Consultation paper states b*y 2026*, *our population is expected to be "super-aged", with 20% over the age of 65* & is aware that seniors are more vulnerable to mis-selling and exploitation. What is the prioritized response? To continue implementation and evolution of the OSC Seniors Strategy and analysis of completed regulatory initiatives, focused on protecting older and vulnerable investors? Compare this to the 8 Point Action Plan to foster capital formation. The protection of seniors should be near the very top of any Priority List, in that losses for most seniors can be financially devastating and life-altering. The protection issue is even more important - considering that longevity is increasing, thus savings should not be allowed to run out due to any industry wrongdoing.

Binding decision mandate for OBSI: The OSC's credibility is at stake (if it is even concerned) if this long awaited mandate in not granted in 2023. Note also, the systemic issue Protocol Overhaul is a necessary adjunct for OBSI credibility as a financial Ombudsman in good faith, and not acting as most of them do by taking in matters and then quietly disposing of same.

Discount brokers and gamification: The Ontario Securities Commission recently released a study that examined the influence of gamification and other behavioural techniques on retail investor behaviours. The study found that **DIY investors make much worse decisions when platforms 'gamify' trading. NB "*More broadly, we encourage regulators to consider whether any of the said gamification and behavioural techniques examined have attributes similar to recommendations and/or result in any investor behaviours that are [on average] detrimental to investor outcomes*,"** .This abusive practice has been in play for some time now, and is likely to expand unless the OSC acts decisively. Surely the OSC is cognizant of the kinds of inducements and gimmicks being used to push DIY retail investors to "trade frequently", whether or not it is in their best interests. An action plan - for dealing with said gamification would be most appropriate. Others in related fields call it "churning", especially in life insurance fields, focusing seniors.

Greenwashing: Investment funds continue to misrepresent their holdings and use misleading fund nomenclature regarding same. Retail investors are paying good money for investments in ESG friendly companies, but are receiving something else. Is this plan adequate - to contain all misrepresentation**;** is there a sense of urgency? ERGO - *Complete a focused review of ESG disclosures by investment funds in accordance with CSA Staff Notice 81-334 and publish summary of findings and any guidance updates by December 2023. Also have a good look at the **Black Rock** ads on TV. It and its in-house sister funds like **Vanguard,** control circa USD 9 trillion (in whatever its form).*

Discount brokers: Great opportunity is available for OSC in conjunction with IIROC /NewSRO - to reassess regulation - to allow innovation & technology, to assist ordinary retail investors to economically manage their investments for retirement. Today - discount brokers are more than Order Execution Only Brokers. **OSC** should do everything possible to foster improvements in the ability of these brokerages to provide the market information, tools, checklists, calculators and educationals retail investors need. Artificial intelligence - should be on the agenda - however, keeping in mind the plight of seniors who are hardly tech savvy, and may be entering early stages of dementia and other ailments.

**** The OSC may post this LETTER with ADDENDUM on its website even by PDF if you so prefer.**

Sincerely,

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Note: The addendum that accompanied this letter has been omitted as it contains third party content and no substantive comments on the Statement of Priorities.