Sent Via email May 8th, 2016

Ontario Securities Commission
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ATTENTION: Robert Day
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Re: OSC NOTICE 11-774 - STATEMENT OF PRIORITIES REQUEST FOR COMMENTS REGARDING THE STATEMENT OF PRIORITIES FOR FINANCIAL YEAR TO END MARCH 31, 2017
https://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20160310_11-774_rfc-sop-end-2017.htm

It is a pleasure to once more have the opportunity to provide my recommendations to the Ontario Securities Commission (OSC) regarding the proposed priorities for the fiscal year 2016-2017. In the past, either by response to the OSC Request for Submission or on a personal supplementary comment basis, I have made my views known, related to the critical issues that OSC should address.

Kindly refer to my May 25th 2015 response to the OSC Notice 11-771 Statement of Priorities request. I put forward **eight** Recommendations requiring the OSC attention that were spirited from my own personal experience, when trying to extract justice in an investment dispute with an Investment Dealer and their Investment "Advisor" employees. I am now one-year older at 82, and those recommendations still qualify and are worthy of the OSC remedial attention.

After reading the March 21st 2016 Kenmar Associates and the McBride Bond Christian LLC April 25th Submissions and especially the Carp Submission, I fully endorse their professional viewpoint recommendations. Each, in their own way reinforce the OSC oversight priorities that are badly needed to balance the scales of justice more in favour of powerless investors and against the powerful interests of the Investment Dealer financial community.

It is good to see that this year the OSC will place more emphasis on retail investor protection. Here are my recommendations:

Implement Best interests standard for advice I totally agree with making this a priority . Until a few years ago I had the understanding that dealing fairly, honestly and in good faith was adequate but have since learned otherwise. The OSC is to be congratulated for taking a leadership role, independent of the 12 other securities regulators .This is a MUST SUCCEED initiative . Everything possible must be done to prevent a repeat of the 2004 Fair Dealing Model debacle. It is vital that "advisor" proficiency, IIROC enforcement and dealer complaint handling are simultaneously upgraded.

Make Fund facts risk disclosure safe for investors I do not think it is wise to capture fund risk in one single set of ill defined words based solely on past variability**.** As things stand now the risk disclosure using the standard deviation ("volatility") to describe the risk of mutual funds and ETF's is misleading , incomplete, not understood by investors and can harm investors. The disclosure actually disassociates "risk " (no SD value actually provided) from return. As such, it cannot be used to make an informed investment decision. There are many risks that are not captured by the past volatility . For some types of funds and ETF's it is entirely inapplicable. The Comment letters from Invesco , CFA Institute, SIPA , Fair Canada, Advocis ,Dan Hallett, Kenmar Associates and individual investors make it clear that changes are required. This is further endorsed by the OSC's own Investor Advisory Panel. Focus testing results also failed to establish its robustness as a risk disclosure. It is not fit for use based on evidence. In any event, the OSC must ensure that if the proposed methodology is used that the disclosure cannot be used to determine suitability.

Whistleblowing initiative I definitely support the introduction of an incentivized Whistleblowing program. In the U.S. this has proven to be a very effective tool in exposing and prosecuting corporate wrongdoing.

Increase enforcement and fines for suitability violations - "Wrist slap" penalties are clearly not working. I would recommend increasing penalties for abuse of vulnerable investors by 50% or more in order to enforce the message. It is vital that regulators impose penalties sufficient that investment dealers feel it on the P&L statement. The lowly suitability standard is all investors have right now so at least its rules should be vigorously enforced. The IIROC listing of penalties should be levelled not only at the individual "Advisor" for wrongdoing, but also at the Investment Dealer whose Compliance Department have the responsibility to monitor the appropriateness of investments recommended to the investor.

Fix KYC system: The whole approach to Know Your Client needs to be re-assessed from the ground up. NAAF forms are severely limited by the embedded subjective terminology and the use of industry jargon used on these forms. Generic terms such as "moderate risk" are meaningless on their own. While investors may fit neatly into boxes labeled aggressive, moderate, or conservative, such categories ignore their response to short-term risk-that is, volatility-and their fear of the unknown. Risk is multi-dimensional. Behavioural aspects include fear (selling everything at the worst time) and greed (buying stocks / mutual funds after a huge rise). Loss capacity - the amount of money an investor can afford to lose without putting the achievement of financial goals in jeopardy is a critical consideration. Loss capacity assessment needs actual income and expenditure data modeled against a proposed portfolio solution. This is rarely assessed as part of the suitability determination. The fixing should include due consideration for the informative PlanPlus research report on investor risk profiling. I recommend that signed/dated KYC forms be time stamped and an original copy given to the client for retention.

Finally, the OSC should assure investors that their rights are being protected with the OSC directing IIROC fully enforce the Regulatory Law, Rules and Guidelines related to the illegal act of making changes to the investor's KYC when there have been no changes in characteristics of the investors investment profile. (I have documented proof of such an occurrence when IIROC choose to ignore the factual evidence)

Reform OBSI It is pretty clear from the letters posted in response to the independent review that OBSi needs fundamental changes in governance , investor participation and operational processes including providing a definitive cycle time measured in days. Decisions need to be binding . The comment letter from Mr. H. Geller https://www.obsi.ca/en/download/file/645 succinctly makes the case for reform . SIPA's Comment letter https://www.obsi.ca/en/download/file/636 explores the issues in detail and in great depth as does Kenmar's https://www.obsi.ca/en/download/file/628 . Comment letters from investors and the OSC Advisory Panel were compelling in that OBSI needs to change. We fully expect the Independent reviewer to recommend changes just as the 2011 Khoury report did. These recommendations should not continue to be ignored by regulators. These deficiencies should be dealt with by the JRC and OBSI Board without undue delay. An effective Ombudsman is a critical element of Canada's investor protection regime. As an aside, the OSC should require that the next independent review take place within the next 3 years to ensure all the recommended changes are working and no new industry shenanigans have been introduced.

I am prepared to provide the OSC with much more personal experience narrative to this subject of why the operations of the OBSI need to be critically reviewed and disciplined. Not the least of these is when the ex-President of OBSI recommended that I contact the police force criminal department or hire a lawyer when I pointed to very obvious evidence of fraudulent mutual fund performance misrepresentation.

Prohibit banks and insurance company owned investment dealers from having their Internal "Ombudsman" getting involved with securities complaints. Their only impact is to fool investors, delay decisions and wear down the investor so they have no energy left to complain to OBSI. The internal "Ombudsman" have no doubt kept many valid complaints away from OBSI with investors getting little or nothing in compensation via these biased, conflicted and unregulated dealer complaint handling systems. (Here again, I am prepared to provide personal experience evidence of a bank Ombudsman refusing to accept legitimate evidence of Regulatory violations in the process of their exonerating the wrong-doing of their Investment "Advisor" employee. The same Bank Ombudsman also made at least one false claim that they refused to substantiate, which false claim was later substantiated after the evidence was forthcoming from the results of a PIPEDA demand.

A very important fact - There is absolutely no oversight of the conduct of the Ombudsman that is employed by a Canadian Bank

I have contacted all the Canadian financial Regulatory bodies and SROs, ie. the FCAC, the CSA, the OSC, IIROC and the OBSI. All these organizations have said that they have no jurisdiction over the conduct of bank Ombudsman when the subject is related to investments. This freedom from any penalizing oversight has to change by removing the in-house Ombudsman from the complaint resolution process.

Dramatically raise the minimum proficiency standards for those providing financial advice - The financial services industry has evolved from a transaction based industry to one that provides wealth management advice that can detrimentally shape a client's future retirement. It is therefore essential that the professional standards be raised so that robust solutions are provided to clients. In addition, there is a growing need to service retirees. According to Statistics Canada, 15.7% of Canada's population is aged 65 and older as of July 1, 2014. Thirty years ago, that percentage was 10%. The trend will continue. Complaints by and on behalf of seniors are soaking up disproportionately large chunks of regulators' resources.

Enforce title inflation It appears that clients definitely are influenced and deceived by improper "advisor" titles/designations. That point came through clearly when IIROC ran focus groups involving investors of all ages. In general, Investment Dealers are responsible for ensuring that designations are up to standard and appropriate for the services being offered by their advisors. IIROC's guidance note on titles and designations specifically outlines four criteria for deciding the use of titles and designations. These include: considering the role and function the advisor is approved to undertake; the services and products that the advisor is approved to sell or advise on; the qualifications of the advisor, including his or her education and experience; and the actual role, function and office held by the advisor within the firm, whether or not that requires IIROC approval. Yet, we constantly read in the press of "advisors "using terms like Retirement Consultant or Seniors Specialist. This misleads people and the practice should be halted by diligent enforcement. When doing a CSA registration check, I find the title listing "dealing representative", not "Advisor".

There is even confusion and lack of clear consistency in the use of titles in the documentation published by IIROC, the CSA and the OSC. Some documents refer to Advis(o)r and some to the title Advis(e)r, when in fact the individuals are registered by the CSA as "dealing representatives". There is a real difference. The title Advis(o)r has no legal attachment for fiduciary duty but the title Advis(e)r does carry the fiduciary duty obligation. (This can explain why many securities "sales persons" [dealing representatives] use the title Investment "Advis(o)r", they have no fiduciary duty.

Update dealer and SRO complaint handling systems to reflect contemporary standards of conduct Require that investment dealers provide complainants with the information necessary to make an informed decision on so-called dealer "substantive responses ". Complaint handling should be congruent with the rule to deal fairly, honestly and in good faith with clients.

Amend the Ontario Securities Act so that the MFDA and IIROC have the legal power to collect fines from individuals. The current system has little deterrence effect and is mocked by investor advocates and others. While IIROC collected 100% of fines and other penalties levied against firms across the country in 2015, collecting from individuals has been much more challenging for IIROC . In much of the country, these people can evade payment by simply leaving the securities industry or by operating in an unregistered capacity. This is wrong. If an "advisor" breaks the rules and abuses the trust their clients have placed in them, they should pay the penalty. A system that would allow IIROC to pursue these individuals, even if they leave IIROC membership or leave the financial services industry entirely sends at least a modest deterrent message - and just as importantly demonstrates the integrity of the regulatory system.

All uncollected fines after one year should be to the account of the sponsoring dealer - this will result in more attention to compliance and enhanced supervision. Proceeds from fines should be used for investor protection purposes.

Dealer Accountability. SRO's should hold dealers accountable for the decisions of its "dealing representatives" including when they cheat or defraud by selling them whacky or phantom investments or inappropriately make investments for clients such as DSC purchases or off the books of the dealer.

Deal with misleading ads. These ads are tricking trusting Ontarions into placing trust where it is not warranted. See Fiduciary duty is a marketing illusion: Small Investor Protection Association Special Report http://www.sipa.ca/library/SIPAsubmissions/720_SIPA_Report_Deception_20150505. pdf

Make IIROC investor-friendly. It should come as no surprise that IIROC is viewed by investors with great suspicion .To acquire investor trust I suggest the following:

(a) Add retail investors to the Board of Directors
(b) Introduce a well-financed investor Advisory Council a la OSC IAP
(c) Emphasize enforcement of dealers rather than individuals
(d) Update complaint handling rule to contemporary standards
(e) Improve its own complaint handling policies and practices
(f) Tighten sanction guidelines to fit the level of abuse
(g) Deal with systemic issues and OBSI rejections/low balls
(h) Include IIROC logo on client statements

Best interests will not be effective without major changes to IIROC policies and practices.

OSC should direct IIROC to extend the reporting of ComSet statistics to include the names of all Investment Dealers and the number of investor complaints registered against each Dealer. This initiative is vitally important because there needs to be effective incentives to make the Investment Dealers aware that their names, alongside the number of ***unresolved*** complaints received from investors would henceforth be published. This in turn would reflect on the Investment Dealer's reputation. As it is now, there are conflicts of interest and incentives for investment Dealers to condone the self-interests of their Investment "Advisor" employees because the Dealer can also financially profit from overlooking those wrongful "Advisor" self-interests conduct.

The IIROC statistics speak for themselves - For the 5-years 2011 to 2015 there were **6,255** reports of complaints reported under the ComSet rules but IIROC only initiated **241** investigations. **That is an unbelievable investigation rate of only 3.8% of investor dissatisfied complaints reported to IIROC by Investment Dealers.** What happened to the other **6,014** (96.2%) ComSet registered complaints that IIROC received ?

IIROC have explained that they do not publish the names of Investment Dealers accounted for in these statistics because some of the investors complaints against the dealers could be frivolous and IIROC's policy is not to disclose firm or individual specific data unless and until they result in a disciplinary proceeding.

Here is the issue - As IIROC claim they review all complaints as received, they then should be in position to determine which are frivolous and which are legitimate complaints. This the amplifies the question, **"What happened to the 6,014 (96.2%) ComSet complaints that IIROC received". Did they get dumped as less significant ?** Just think of the personal impact when there were 6,014 individual investor's savings at stake and they were ignored by the IIROC process that is supposed to be helping protect the investor interests.

IIROC explains their reasoning relates to the questions of fairness to firms and individuals being named in frivolous complaints and also to possible confusion for investors who may not fully appreciate that allegations against a particular firm or individual have not been proven. **IIROC exists to create a protection climate for investors, which in turn requires that the names of less reputable Investment Dealers be published so as to protect the interests of future investor decisions.**

Even when IIROC receives complaints **directly** from the public, how can you expect that wronged investors are going to have faith in the system ? Of the **1,266** complaints IIROC received directly from the public, IIROC only investigated **341** of the complaints. That is a 27% hit rate. **What happened to the other 73% (925) of the complaints ?** Did IIROC consider them as being, as they say, "frivolous", or did IIROC once more use its discretion to dump the other **925** complaints as not being the best use of their resources ?.

These numbers pose the question of what constructive purpose does the reporting of these ComSet statistics serve in the IIROC pursuit of protecting investors ? A recent IIROC Press Release title reads, ***"Report highlights IIROC's focus on strengthening enforcement tools and deterring wrongdoers"*** There is one sure way to "deter wrongdoers" and protect future investors and that is to publish the number of complaints registered against each Investment Dealer.
Here is the link to the press release -
http://www.iiroc.ca/Documents/2016/40e39af7-b9d7-43be-82e8-9535dc54ceb3_en.pdf

Prohibit IIROC from allowing salespersons to act as executors or trustees. This proposed rule has been opposed by FAIR, SIPA , the OSC IAP and Kenmar Associates but just won't go away.

Seniors initiative: Incorporate regulations that would require that advisors assigned to vulnerable investors have a fiduciary duty and the necessary training and qualifications/experience to advise on retirement accounts e.g. RRIF (a de-accumulating account, especially with wrongful DSC purchases and other necessary investment disclosures). The Broadbent Institute's report on the economic circumstances of Canadian seniors notes that a large percentage of older, working Canadians are heading to retirement without adequate savings and suggests that the percentage of Canadian seniors living in poverty will increase in the coming years.

https://d3n8a8pro7vhmx.cloudfront.net/broadbent/pages/4904/attachments/original/1455216659/An_Analysis_of_the_Economic_Circumstances_of_Canadian_Seniors.pdf?1455216659

I trust you will find this feedback useful in your deliberations.

I am providing permission to post this letter on your website for public viewing.

Sincerely,

Peter Whitehouse