



CSA Staff Notice and Request for Comment 11-343, Proposal to Establish a CSA Investor Advisory Panel

https://www.osc.ca/sites/default/files/2021-12/sn_20211202_proposal-to-establish-csa-iap.pdf

Submission by the Transparency Task Force, January 28th 2022

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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.

About the Transparency Task Force

The Transparency Task Force is a UK-based Certified Social Enterprise, meaning that we exist to make an impact, not profit.

The mission of the Transparency Task Force is to promote ongoing reform of the financial sector, so that it serves society better. Our vision is to build a large, influential and highly respected international institution that helps to ensure consumers are treated fairly by the financial sector. The primary beneficiaries of our work will be consumers; but the sector itself will also benefit through improved market conduct and increased trust in the services it provides.

Our objective is to carry out a broad range of activities that help to drive positive, progressive and purposeful finance reform, such as:

- Building a collaborative, campaigning community; the larger it is the more influence it can have in driving the change that is needed
- Raising awareness of issues; so that society better understands the problems that exist in the financial sector and how they can be dealt with
- Engaging with people who can make change happen; because through such dialogue we can influence thinking, policy making and market conduct

In recent years the Transparency Task Force has become increasingly international, with members around the world, including in Canada, see:

<https://www.transparencytaskforce.org/the-ttf-international-initiative/>

We have hundreds of Ambassadors, in 22 countries around the world, including Canada, see here: <https://www.transparencytaskforce.org/ttf-ambassadors/>

For further information about the Transparency Task Force see:

<http://www.transparencytaskforce.org>

This response is all non-confidential. Please note that all comments in this response are part of the response, and should be considered.

Some of this response is contained in answers to CSA's specific questions below, but the parts of the response not shown as direct answers to questions are equally part of this response, and for consideration by CSA.

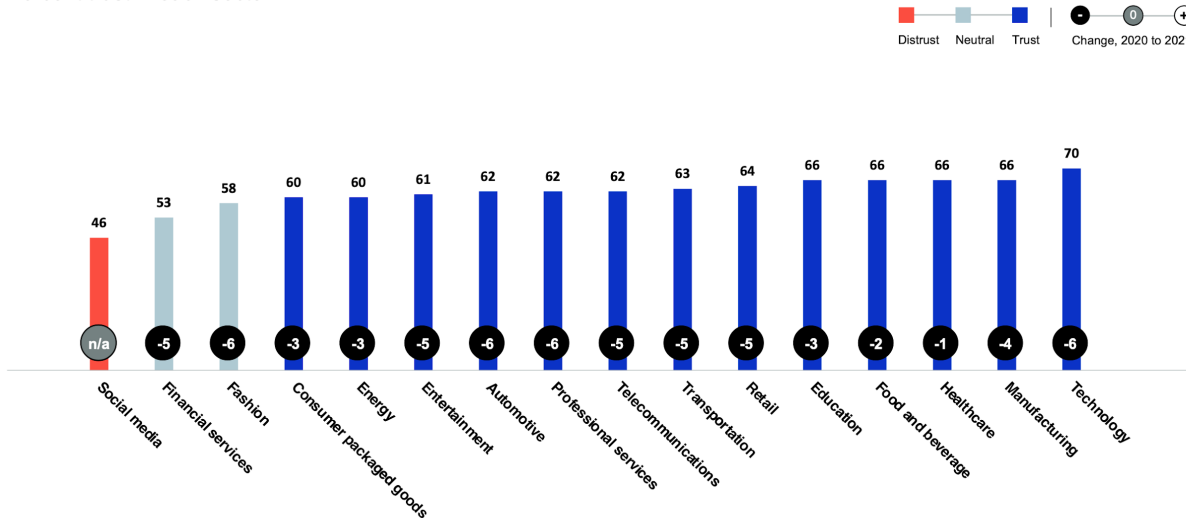
We are extremely grateful to Ken Kivenko of Kenmar Associates, on whose thoughts this response is based.

As always, context is key

We believe that there is cause for concern about the reputational integrity of the financial services sector, in most parts of the world. There is ample evidence to suggest that society is distrusting of financial services. The highly credible [2021 Edelman Trust Barometer in Financial Services](#) shows it to be the second most distrusted industry; second only to social media, as the chart on the following page shows:

TRUST DECLINES ACROSS SECTORS

Percent trust in each sector



2021 Edelman Trust Barometer. TRU_IND. Please indicate how much you trust businesses in each of the following industries to do what is right. 9-point scale; top 4 box, trust. Industries shown to half of the sample. General population, 27-mkt avg.

Edelman | 46

Given the fundamental need for the financial sector to be trusted for it to function successfully, it should be a great concern for the sector's market participants, trade bodies, professional associations and regulators that it is a sector that society does not trust.

We believe that the CSA's Investor Advisory Panel has the potential to make a positive difference in this regard as it can help to introduce reforms in Canada that will produce better outcomes for consumers, and thereby help to bridge the trust deficit.

For these reasons, Transparency Task Force wishes to formally express our respect and appreciation for CSA leadership and vision in establishing an Investor Advisory Panel.

Transparency Task Force believes an independent IAP is critically important for millions of Canadians saving for their retirement, their children's education, the purchase of a home or other important life goals. An IAP provides the CSA a vehicle to comply with the [G20 High-Level Principles on Financial Consumer Protection](#). Effective investor involvement improves the democratic accountability of the CSA and builds trust and confidence in the CSA itself as well as the ecosystem that it presides over.

Our comments

1:

The key to effective investor- regulatory involvement is knowledge on the part of both investors and regulators. Retail investors have to know about the regulatory regime if they are to be able to be effectively involved in it. Regulators have to have knowledge about retail investors' knowledge, behaviour and needs if they are to design regulation which provides them with appropriate protections.

This renewed policy and regulatory focus on retail investor protection results inter alia from the

increased transfer of opportunities and risks to individuals and households in various segments of financial services, as well as the increased complexity of financial products and rapid technological change. Rapid financial market development and innovation, unregulated or inadequately regulated and/or supervised financial services providers, and misaligned incentives for financial services providers increases the risk that retail investors face - abuse, misconduct and fraud. In particular, low-income and less experienced consumers often face particular challenges in the marketplace. A CSA IAP provides a voice for Main Street to address these challenges.

Corporate Canada and the financial services industry have the power and resources to effectively and continuously lobby government and CSA decision makers. The Canadian retail investor has extremely limited capabilities to access decision makers or lobby for necessary policy and procedural reforms. An IAP provides a vehicle to rebalance the huge gap in access to the CSA. An IAP is in fact a fundamental component of socially responsible regulation and should be considered a fundamental investor right. The existence of an IAP is in the Public interest.

Mandate: There are two main components. The first is to respond to requests for advice/comments from New SRO. The Panel will also advise New SRO with respect to its annual priorities and strategic plans. The second is for the Panel to raise current and emerging investor issues to the CSA for consideration/action. The Panel may speak out publicly when it wishes to draw attention to matters in the Public interest.

The Terms of Reference should include a mandate to advise and challenge the CSA from the earliest stages of its policy development to ensure it takes into account the investor viewpoint. The Panel should be able to speak freely and forthrightly.

The Panel is expected to respond to CSA policy/consultation requests and other consultations deemed crucial to investor protection. For clarity, these other consultations will include those of other CSA member Commissions, New SRO and OBSI. The IAP shall consult with the CSA when planning to comment on a consultation other than a direct CSA originated consultation.

The Panel is expected to develop its own work plan and choose which topics and priorities to address, in addition to responding to CSA requests for advice and comment. The Panel should commission such research as it considers necessary in order to help it to fulfil its duties under the Terms of reference.

2:

Composition: We recommend that the IAP consist of seven to nine Members to provide the necessary competencies, perspectives and geographic coverage. The composition of the Panel membership should reflect and promote a diversity of perspectives (such as geographic diversity - including rural perspectives, age demographics, underrepresented investor perspectives and investors from historically marginalized communities), expertise and experience. A Panel size of five is too small to be effective and could be inoperative if one Member is unable to attend. For coordination purposes, a reserved position for an OSC IAP member shall be maintained provided such person meets CSA IAP participation requirements. A Member of the Autorité des marchés financiers ("AMF") Financial Products and Services Consumer Advisory Committee and the New SRO IAP (yet to be formed) should each have

Observer status on the Panel to prevent duplication of effort and provide liaison.

Recruitment: Members should be recruited via a public solicitation.

Timing: Completion of the Member selection process in the Spring of 2022 is reasonable.

Independence: The Panel itself will determine which issues and priorities to comment on. In addition to responding to CSA requests for advice and comment, the Panel will select issues that are believed to have significant retail investor impact and will be expected to provide objective and unbiased opinions on these issues. The Panel will conduct its deliberations without involvement from the CSA. It will also consult widely with retail investors as determined by the Panel Chair.

IAP Member credentials:

Members should have a broad skill set which could include financial consumer advocacy, behavioural finance, financial planning, law and academia.

There must be credibility amongst investor advocate stakeholders - including:

- A. A track record for advocating for fairness in investor protection for Canadians
- B. Ability to work collaboratively with other investor protection groups, seniors Associations, Public Guardians etc.
- C. Basic knowledge of the Canadian financial sector and retail services/products
- D. General knowledge of applicable Canadian securities law and regulation
- E. An understanding of current retail investor issues

Panel Chairperson duties. The Panel Chairperson responsibilities will include:

- A. Leading IAP activities and discussions
- B. Preparing meeting agendas
- C. Chairing Panel meetings
- D. Act as the Panel's spokesperson and liaison with the CSA.

Meeting times: The time and duration of meetings shall be structured to accommodate Members residing in different Canadian time zones.

3:

Service Terms: The CSA Chairs will appoint Members for staggered terms of up to 3 years. The terms are one-time renewable.

Meeting schedule: A minimum of four meetings per year with the CSA is appropriate with additional meetings scheduled as deemed necessary.

Compensation: The proposed remuneration appears to be in the right ball park, albeit on the low side. All applicable transportation, food and accommodation expenses incurred should be

reimbursed.

Confidentiality: IAP Members must maintain the confidentiality of non-public information provided to the Panel including documents provided or the content or existence of any discussions held between them or the CSA, unless specific consent is provided by IIROC

Budget: Subject to the CSA approval, the IAP will be provided with an annual budget for activities such as consultations, research, surveys, outreach or preparation of submissions, to facilitate its ability to carry out its mandate.

CSA technical support: The CSA will provide reasonable access to CSA Member subject matter experts as may be required for the IAP to competently perform its mandate.

CSA admin support: The CSA shall provide the necessary administrative support to enable the Panel to operate effectively and efficiently. The administrative support would include notifying Panel Members of dates/times when meetings are to be held and to take charge of recording minutes of the meetings and distributing them.

Web presence: A section of the CSA website should be dedicated to the Panel and an email address provided for contacting the Panel Chair.

Transparency: The IAP should publish meeting agendas and minutes (redacted as necessary) on a dedicated section of the CSA website. The IAP should be required to publish an Annual report on its activities and viewpoints to be disclosed on its section of the CSA website. All Comment letters prepared by the Panel shall be publicly posted on appropriate websites.

Termination of the IAP: The possibility of an abrupt cancellation of an IAP sends a very bad message. When the OSC suddenly failed to renew the IAC mandate a decade or so ago, the distrust of the OSC soared. This is not a provision a modern securities regulator wants to include in the IAP mandate document. We strongly urge the CSA to delete the provision. Rescinding an IAP mandate would be unconscionable. It is so unlikely that the CSA would want to terminate an IAP, there is no need for this provision. If the CSA must have an exit clause, we recommend that at least 6 months' notice be provided based on a unanimous decision of all provincial and territorial jurisdictions. Our recommendation is the opposite - embed, i.e. our recommendation is that the CSA should incorporate the IAP into its standard operating procedures, policies and terms of reference so that the IAP is protected from sudden dissolution.

4:

The IAP into CSA culture and Terms of Reference.

Independent work: Confidentiality requirements and potential conflicts-of-interest provisions of an IAP Member should not prevent such individuals from independently advocating and writing on a number of key investor protection issues nor acting as Intervenors/Counsel involving CSA enforcement cases. In these situations, the Member shall not be permitted to utilize any non-public information provided to him/her as a result of his/her IAP membership.

We sincerely hope you find this feedback useful.

Do not hesitate to contact us if there are any questions.

Permission is granted for the public posting of this Comment letter.

Kind regards,

Andy

Andy Agathangelou FRSA

Founder, Transparency Task Force; a Certified Social Enterprise

Governor, Pensions Policy Institute

Chair, Secretariat Committee, APPG on Pension Scams

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