



Common Front for Retirement Security (CFRS)

Brief

To

The Expert Panel on Securities Regulation

July 15, 2008

Common Front for Retirement Security Charter Members

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- **CARP, Canada's Association for the Fifty Plus**
- **SenTax**
- **Small Investor Protection Association (SIPA)**
- **The Royal Canadian Legion**
- **Air Canada Pionairs**
- **Response: A Thousand Voices (RTV)**
- **Allstream Retirees**
- **Federal Superannuates National Association (FSNA)**
L'Association nationale des retraités fédéraux
- **United Senior Citizens of Ontario USCO**
- **Alliance of Seniors – the Older Canadians Network -
Toronto**
- **Canadian Activists for Pension Splitting/Regroupement
des Canadiens pour le partage des pensions
(CAPS/RCPP)**
- **Retired Airline Pilots of Canada RAPCAN**
- **Older Women's Network (Ontario)**
- **The Ontario Coalition of Independent LIF Holders**
- **Armed Forces Pensioners'/Annuitants' Association of
Canada Inc.**
- **CBC Pensioners National Association / Association
nationale des retraités de la SRC**
- **COMTECH, Communication and Technical Workers
Credit Union**
- **REAL Women of Canada**
- **Army, Navy and Air Force Veterans in Canada**
- **Molson Retirees**
- **Canadian National Pensioners Association**

The Common Front for Retirement Security (CFRS) evolved from the successful advocacy of its predecessor, the Common Front for Pension Splitting (CFPS) after pension-splitting legislation was enacted on June 22, 2007. The 21 members of CFRS represent two million members.

The purpose of the CFRS is to advocate for legislative reforms that will make pensions and other retirement savings more secure.

The CFRS fully endorses submissions made by CARP, Canada's Association for the Fifty Plus, the Small Investor Protection Association and the Air Canada Pionairs. These organizations are charter members of the CFRS. To avoid duplication, we refer you to their presentations. Each one sets forward an authoritative commentary on how regulations/enforcement has an impact on current and future retirees and presents recommendations for legislative reforms.

The common theme in these presentations is the need to protect investors from swindle and fraud especially the unsophisticated and unwary. Financial advisors should be government registered professionals and be held accountable for misrepresenting the interest of their clients. Financial institutions have a fiduciary trust that should be incorporated into laws that have enforcement teeth to penalize infractions.

Pension and other retirement investment depend primarily on effective securities regulation and enforcement. Politicians have promised reforms for seven decades but the regulatory system in the Canadian market still lags far behind that of its major trading partners.

For example, the US government is currently proposing a timetable to enact a series of regulatory changes that will enhance American competitiveness overseas, attract foreign investment and give American investors a broader selection of foreign stocks. (NY Times July 5, 2008). However, America is very concerned, and rightly so, by the weak regulations and the lack of protection for investors in foreign countries. The US Securities Exchange Commission (SEC) has already opened discussion with Australia, snubbing Canada, its largest and closest trading partner.

Canadians could suffer enormous economic consequences if Canada is ignored by America that is taking a lead role in setting global standards and international partnerships.

Ethiopsis Tafara, Director of International Affairs at the SEC said, “You have securities issuers that are mobile. Broker dealers can provide services from anywhere. When you have everything that is mobile, investor protection and enforcement, has to be taken into account.”

Mr. Tafara said that the mutual recognition agreement with Australia would protect American investors because the SEC would still have authority to prosecute foreign companies under American antifraud laws for what he called, “lying, stealing and cheating”.

We are sure that Canadians would agree with Pierre Delsaux, a regulator at the European Commission who said, “No single jurisdiction can resolve all the problems of globalization. We are all doing the same thing. No country has a monopoly on protecting investors”. But how can Canada participate when its regulatory system is held in such low esteem and is further handicapped by its thirteen discordant regulators?

It is reminiscent of how bovine spongiform encephalopathy (mad cow disease) in Canadian cattle stirred up embargoes against Canadian beef exports. Again our regulations failed Canadians because it lacked regulatory power and enforcement teeth. Global confidence was destroyed. Our cattle-farming industry still has not recovered. We can only speculate what would happen to Canada’s economy if Canada (not the US) were the originator of a disaster similar to the ABCP fiasco.

It is obvious that a national regulator is imperative in the global scene. But at the same time, it is absolutely vital to regain the respect and confidence of investors at home. Canada needs laws, backed by competent enforcement, that encourage trust and discourage abuse.

The CFRS endorses the six recommendations presented in Section 8, pages 34-36 in the May 30, 2008 brief from SIPA, entitled, “*Because They Can*”

1. A national regulator for financial services
2. A national investor protection authority
3. A financial services investor protection fund
4. A financial services national registration database
5. National financial services legislation
6. A special court for financial crime

Self-regulation, a Recipe for Disaster

It is time for Securities dealers to be licensed by a federal government authority. In its May 20, 2008 brief (page 4) Air Canada Pionairs explains why self regulation, without control, simply does not work in a complex volatile industry.

The industry refers to its agents as Financial Advisors where the title of Sales Agent more accurately reflects their activities. In an unmanageable tug of war, the industry holds these advisors accountable for revenue while clients also expect their loyalty. Such conflict of interest is dangerous for clients and misleading to the general public who are encouraged to consult their Financial Advisor while faced with complex financial decisions.

Dealer institutions must be more accountable to their fiduciary trust. Currently, marketing performance trumps client protection where sales triumphs are king.

Regulation works by counterbalancing client security and asset protection against the forces of avarice and greed. Effective regulation and enforcement will adjust the priorities at all levels within the securities industry so that client protection can ultimately reach its appropriate priority in the industry reward system.

Some will argue that competition provides sufficient client protection. In these times of dubious hybrid capital instruments when banks do not trust each other why would Canadians rely their self-regulated institutions? Many securities

dealers privately agree that impartial regulations are required. However, they usually point to peers and competitors as the culprits.

Investment paper needs to carry mandatory labels that are as simple to understand as the label on a can of beans.

Some might protest that many investments are too complicated for the general public to understand. In that case, the industry should be obliged to warn clients accordingly and refer them to an unbiased, authoritative source of information.

Ideally, such a source of information would be a database on a website managed by the Ministry of Justice or another government department or agency. The securities industry should be required to register products and describe elements of risks. Disclaimers must be limited and specifically qualified. Violators should be subject to penalties, exposed and have their licence revoked.

The CFRS does not profess expert credentials in securities regulatory law and enforcement. The Expert Panel has these skills or has access to them. The CFRS does understand the inadequacies of the system that is putting pensioners and retirement plans at risk.

Having met with the Expert Panel on May 30, 2008, the CFRS has confidence in the dedication and expertise of panel members and wishes it to succeed where many have failed.

The CFRS looks forward to participating in further discussions and rallying its members in support of the panel's mission and final recommendations.

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