

CSA Staff Notice and Request for Comment 11-343

Proposal to Establish a CSA Investor Advisory Panel

December 2, 2021

Introduction

The Canadian Securities Administrators (the “CSA” or “we”) plan to establish an Investor Advisory Panel (“CSA IAP” or “Panel”) and are seeking comments on the proposal, including the proposed Terms of Reference that will govern the CSA IAP’s functioning.

Executive Summary

The CSA has identified the need to establish an expert group of individuals, as advisors to the CSA, who can represent the views of retail investors on pan-Canadian policy development initiatives more effectively. This body will include seasoned experts on retail investor issues from different regions in the country to allow for an expanded representation of retail investors’ views. The CSA currently receives comments from investors notably through a notice and comment process and through the work of other panels or committee established in Canada, but we think retail investors’ views can be represented in a more consistent and comprehensive manner through the mechanism of a pan-Canadian panel.

Substance and Purpose

The CSA thinks that a CSA IAP will (i) improve regulation and policy development by CSA members and (ii) improve investor involvement in the financial services market regulation. A CSA IAP will play a crucial role in assuring regulators that CSA policy development efficiently addresses retail investors’ needs by providing current knowledge, analysis and critical thinking. As a communication channel, it will facilitate and promote dialogue between retail investors and CSA members.

Currently, retail investor advocates participate in the rule-making process by providing comment letters or through *ad hoc* engagement with CSA members. The Panel allows for a more structured approach, facilitating ongoing dialogue that will significantly improve this process. Moreover, we expect retail investor participation and feedback to increase as a result of the Panel’s outreach efforts. As regulators, we hope to have more meaningful insight into retail investor concerns about rules and policies through the Panel’s representation of a greater sample of the retail investor population.

Overall, the CSA IAP would ensure a more structured and sustained exchange between retail investors and the CSA and would address current access barriers to the rule-making process as noted by some retail investor advocates. Furthermore, continuous input from the CSA IAP would likely broaden CSA policy-makers’ awareness of retail investors’ areas of concern. Given that the IAP members would have broad geographic representation and diverse background, academic and research expertise, the CSA IAP could explore further these areas of concern and help the CSA find suitable solutions.

In developing this proposal, the CSA reviewed similar existing bodies, such as the Ontario Securities Commission (“OSC”) Investor Advisory Panel, the *Autorité des marchés financiers* (“AMF”) Financial Products and Services Consumer Advisory Committee, the U.S Securities and Exchange Commission’s Investor Advisory Committee, the UK Financial Conduct Authority’s Financial Services Consumer Panel, the Australian Securities and Investment Commission’s Consumer Advisory Panel, and the Investment Industry Regulatory Organization of Canada proposal to establish an Expert Investor Issues Panel. This review demonstrated the value of collecting additional investor input through a dedicated body.

In designing the CSA IAP, the CSA followed these guiding principles:

- The Panel will represent a broad and diverse range of investors and investors’ interests
- The Panel will be independent of the CSA
- The Panel composition will be diverse
- The Panel will be free to choose which CSA policy initiatives it will consider
- Panel members will be remunerated
- The Panel’s work will not be a substitute for the work conducted by CSA members’ existing panels or committee
- The Panel will have a direct access to the CSA
- The CSA will invest resources to support the work of the Panel

We have anticipated questions commenters may have and provide answers to these below.

Q. What will the focus of the CSA IAP’s work be?

The Panel will focus on providing feedback and written comments to ongoing CSA proposed rules, policies, concept papers and discussion drafts. The Panel is expected to develop its own work plan, identifying the areas of focus for the next year. The CSA may expand the Panel’s mandate if necessary.

Q. Who should apply for the Panel membership?

We expect the members of the Panel to represent a diverse range of experience and skills with respect to a wide spectrum of retail investor issues. We also expect the members of the Panel will come from different regions in Canada. CSA will strive to encourage broader diversity among Panel members, based not only on geographic representation but on other demographic factors as well. While Panel members will come from different jurisdictions in Canada and may contribute different perspectives and experiences based on where they live, they are not expected to represent the interests of retail investors only from these jurisdictions. Instead, Panel members are expected to represent the views of retail investors in general and based on their area of expertise. Applicants are expected to have qualifications, skills or experience in one or more of the following areas:

- Involvement in a community-based organization with a demonstrated commitment to advancing public policy, preferably relating to the financial well-being of Canadians or more specific demographic groups in Canada;
- Involvement in an investor or consumer association with experience representing views of Canadians or more specific demographic groups in Canada;
- Advising investors, as a professional, such as a lawyer or an accountant;
- Providing financial advice to household; or
- Market or academic research.

To ensure appropriate interconnection between the Panel and the OSC Investor Advisory Panel (OSC IAP), at least one Panel member will be selected by the OSC from the membership of the OSC IAP, to which Ontario residents are encouraged to apply through the OSC's periodic application process.

Q. What is the application and selection process for Panel members?

Applications for membership in the CSA IAP will be solicited in the winter of 2022, through an announcement on the CSA Website. The CSA hopes to complete the member selection process in the spring of 2022. All applications will be considered by a Selection Committee composed of CSA members' executives. The Committee will recommend the nominees for appointment by the CSA Chairs. The CSA Chairs will appoint between 5 and 9 Panel members for staggered terms of up to 3-years. The terms are one-time renewable.

Q. Will it be a requirement that Panel members attend meetings in person?

Panel members will be expected to attend meetings virtually. In-person meetings will be subject to CSA approval. Members must maintain a good attendance record. Panel members will be remunerated for their participation.

Q. How will the Panel represent the perspectives of Canadian retail investors?

Although the Panel members will be expected to be highly skilled and experienced individuals, they will not likely be experts in all issues considered by the Panel. To advance its work plan, the Panel will be encouraged to draw on the expertise and experience of others through consulting with stakeholders to obtain appropriate input into its deliberations. The Panel may use a variety of methods including roundtables, focus groups or surveys. To that end, and subject to the CSA approval, the Panel will be provided with a yearly budget to support its retail investor consultation efforts and to procure professional services to assist it in an effective realization of its mandate. Procurement of services will be conducted by one of the CSA members on behalf of the Panel.

Q. How will the Panel communicate and report about its activities?

The Panel will communicate in writing through publishing its comments in response to requests for comment from the CSA and through the annual report of the Chair of the Panel to the CSA Chairs. The CSA will also report annually on its CSA website on the activities of the Panel.

Q. Who has responsibility for the effective operation and governance of the Panel?

The Panel is intended to operate independently from the CSA. The Panel will have its own Chair, who will have principal responsibility for the Panel's deliberations to ensure that it can fulfill its mandate effectively. The Panel Chair will lead and manage its activities and will be responsible for ensuring that the Panel develops an annual work plan at an early stage. The Panel will be given administrative support through the CSA Secretariat's office.

Q. Are there any confidentiality restrictions with respect to the Panel's work?

Panel members will be expected not to disclose information that has been specifically identified by the CSA as confidential. Members will also be expected to respect the confidentiality of Panel deliberations and any personal information that might be provided to the Panel by investors or other participants in connection with the Panel's consultations.

Q. Are there conflict of interest provisions with respect to the Panel's work?

Panel members may be in a conflict of interest if any employment, business, financial or other personal considerations could interfere with their ability to express opinions on investor issues being considered by the Panel. Article 11 of the proposed CSA IAP Terms of Reference provides more information on identifying, reporting and resolving potential conflicts of interest. To avoid potential conflicts of interest, it is not expected that current employees of capital markets regulators would be appointed to the Panel.

Q. How will the Panel remain independent from the CSA?

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.

Q. What financial commitment is the CSA making to the Panel?

Members will be remunerated for their work on the Panel. Members will receive \$275 for attending meetings and will be paid \$275 per day for time spent preparing for a meeting or for follow-up

work after a meeting, up to a maximum of three days per meeting. The Chair will be paid \$550 for meetings and \$550 per day for pre and post meeting work. The OSC will remunerate representatives from the OSC IAP according to its remuneration schedule.

Subject to the CSA approval, the Panel will be provided with a yearly budget for activities such as consultations, research, outreach or preparation of submissions, to facilitate its ability to carry out its mandate.

Other Panel members' expenses may be reimbursed subject to the CSA approval.

The CSA members, through the CSA Secretariat, will ensure the Panel receives administrative support. A part time administrator will act as liaison between the CSA and the Panel and will support the Panel Chair in preparation of agenda and organization of meetings.

Q. How is the Panel accountable to the CSA?

The Panel will be given a specific mandate and Terms of Reference to focus its work. The Panel's expected deliverables are:

- Meet at least quarterly every year
- Provide written responses to relevant notices and requests for comments that are published by the CSA in respect of proposed rules and policies, concept papers and discussion drafts
- Respond to CSA requests for advice and comment
- Prepare an annual report on its activities for the preceding year
- Attend, by invitation to the Panel's Chair, the CSA Chairs' meeting to report on matters specified by the CSA

The CSA is committed to the success of the Panel. It is anticipated that the input from the Panel will be critical in formulating rules that are designed to deliver protection to retail investors. It is also anticipated that CSA members' staff will provide commentary about the consideration it gave to the Panel's comments at the time it publishes a final rule or policy.

Request for Comments

We welcome comments on the CSA Investor Advisory Panel proposal, including the proposed Terms of Reference.

Please submit your comments in writing on or before February 1, 2022.

Address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission

Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
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

Deliver your comments only to the address listed below. Your comments will be distributed to the other participating CSA jurisdictions.

The CSA Secretariat
C.P. 400, Place Victoria
800, rue du Square-Victoria, suite 2002
Montréal, QC, H4Z 1J2
Tel. : 514-864-9510
Fax : 514-864-9512
E-mail : csa-acvm-secretariat@acvm-csa.ca

Comments Received will be Publicly Available

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the AMF at www.lautorite.qc.ca and the OSC at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Questions

Please refer your questions to:

Laura Belloni
Secretary General
Canadian Securities Administrators
514-864-9511
laura.belloni@acvm-csa.ca

Canadian Securities Administrators

Investor Advisory Panel

Terms of Reference

PREAMBLE

Considering that the mission of the Canadian Securities Administrators (“CSA”) is to deliver a harmonized securities regulatory system that protects investors from unfair, improper or fraudulent practices and fosters fair and efficient capital markets, its members decided to establish a pan-Canadian Investor Advisory Panel whose objective is to inform rule development within Canadian provinces and territories. As such, this document is a framework for the Investor Advisory Panel.

ARTICLE 1 – MANDATE OF THE PANEL

The Investor Advisory Panel (“Panel”) is an advisory panel to the CSA.

The Panel’s mandate is to represent the interests of retail investors across Canada on the CSA’s policy and rule making initiatives to promote coordination and enhancement of pan-Canadian investor-related issues.

To fulfill its mandate, when appropriate, the Panel will:

Advise and comment in writing on existing and proposed national and multilateral instruments and policies;

Advise and comment in writing on proposed concept papers and discussion drafts;

In formulating its advice and written submissions to the CSA, consider views representative of a broad range of retail investors across Canada through consultation with and input from investors and organizations representing investors;

Raise to the CSA policy issues the Panel identifies based on consultations or Panel members’ opinions as experts in the subject matter of the issue, and comment on the potential implications for investors posed by those issues;

Solicit background and research information conducted by the CSA on specific policy and rule-making initiatives and engage in research projects as needed.

ARTICLE 2 – MEMBERSHIP

The Panel will be composed of 5 to 9 members. At least one of these members will be selected by the Ontario Securities Commission from the membership of its own Investor Advisory Panel.

Other members will be appointed by the CSA Chairs on the advice of a Selection Committee composed of CSA members' executives. The CSA Chairs will also appoint one member of the Panel to act as its Chair. The CSA Chairs may revise the number of panel members from time to time, as necessary.

Vacancies on the Panel shall be filled by the CSA Chairs on the advice of the Selection Committee.

The Selection Committee will make recommendations of qualified candidates taking into consideration diversity and geographic location to ensure broad and diverse representation of investors' views. The Selection Committee will conduct a public selection process through a call for applications, followed by the publication of appointees.

ARTICLE 3 – TERM OF APPOINTMENT

Members of the Panel, including its Chair, shall be appointed for terms of up to 3 years and are eligible for reappointment for one additional term. However, in exceptional circumstances the CSA Chairs may, on the advice of the Selection Committee, appoint a member of the Panel to an additional one-year term on the expiry of 2 terms of office. The maximum duration of the terms may be changed by the CSA as appropriate. The duration of the terms of Panel members may vary to allow for staggered terms.

A person appointed to replace a member of the Panel before that member's term expires shall hold office for the remainder of the term. Such replacement term will not count towards the term limits described.

ARTICLE 4 – ROLES AND RESPONSIBILITIES OF

ALL PANEL MEMBERS AND PANEL CHAIR

All members must work collaboratively and in good faith to ensure the fulfillment of the Panel's mandate and must, above all, abide by the Panel's Terms of Reference.

In addition to ensuring the fulfillment of the Panel's mandate and compliance with the Panel's Terms of Reference, the Chair of the Panel will be responsible for managing the Panel's activities, co-ordinating and chairing meetings, overseeing the work produced by the Panel, and ensuring an efficient use of resources.

The Panel's written responses to notices and requests for comment published by the CSA will be publicly posted and considered in the same manner as comment letters received in the normal course of a request for comment.

Any views expressed by the Panel shall be identified as those of the Panel and not the CSA.

ARTICLE 5 – ROLE OF THE CSA SECRETARIAT

The CSA Secretariat shall serve as the liaison between the Panel and the CSA. All communications between Panel members and the CSA are handled by the CSA Secretariat. The CSA will ensure its members resources are available to engage with the Panel for the different CSA projects.

The CSA Secretariat will serve as the Secretary to the Panel and will provide administrative support including the organisation of Panel meetings, sharing policy documents and managing budget requests.

ARTICLE 6 – PANEL MEETINGS

The Panel will meet at least quarterly. The Chair of the Panel may schedule up to 6 additional meetings to fulfill the Panel’s mandate without requiring CSA’s approval. The Chair of the Panel must request the CSA Chairs’ approval for any additional meetings.

Panel meetings shall be held via electronic means. In-person meetings require the prior approval of the CSA Chairs.

Panel members are expected to attend most meetings and must maintain a good attendance record as the presence of a majority of the members shall be necessary to constitute a quorum for the transaction of business at any meeting of the Panel. The Chair of the Panel may designate a member to act as Chair in case of absence. In the event the Chair of the Panel has not made such a designation prior to the meeting, the members present shall choose one of their members to chair the meeting.

The CSA encourages the Panel to represent the various points of view of retail investors across Canada. Any questions arising at any meeting of the Panel that the Chair of the Panel determines is required to be decided by a vote shall be decided by a majority of votes.

ARTICLE 7 – CONSULTATION AND CONFIDENTIALITY

The Panel is expected to draw on the expertise and experience of its members during deliberations. However, since members of the Panel will not be experts in all issues considered, subject to confidentiality restrictions identified below, the Panel is also encouraged to consult outside of its membership.

In the course of performing the Panel’s duties and obligations, the CSA may provide information or documents to the Panel that are confidential in nature and should not be shared outside of the Panel, except with an express permission of the CSA Secretariat. The same confidentiality standards apply to all Panel deliberations.

If Panel members are required by law or court order to disclose any information they received in the course of performing their duties, they shall immediately and if possible before any required

disclosure, provide written notice of the matter to the CSA Secretariat and shall permit the CSA to take all reasonable actions as required.

ARTICLE 8 – REPORTING

The Panel will report annually to the CSA on its activities for the preceding calendar year. The report shall include a written report and an oral presentation by the Chair of the Panel to the CSA Chairs.

ARTICLE 9 – REMUNERATION AND COMPENSATION

The CSA will remunerate the members of the Panel for their time and effort and will compensate pre-approved expenses. The CSA will decide on the Panel members' remuneration and covered expenses.

ARTICLE 10 - PROCUREMENT

To carry out its mandate, the Panel may make funding requests to the CSA for consultations with investors or to procure professional services. For any approved funding request, procurement will be conducted by a CSA member on behalf of the Panel.

ARTICLE 11 – CONFLICT OF INTEREST

Panel members must conduct themselves in a manner consistent with their role as advisors to the CSA. If a conflict arises between the private interests of a Panel member and the responsibilities of that individual as a Panel member, the member shall disclose the conflict by submitting a letter to the Panel outlining the nature of the conflict. The Panel shall resolve the conflict in favour of the public interest. The Chair of the Panel shall escalate any unresolved conflicts to the CSA Secretariat without delay, who will bring it to the attention of the CSA Chairs for resolution.

Panel members may be in a conflict of interest if any employment, business, financial or other personal considerations could interfere with their ability to express opinions on investor issues being considered by the Panel.

ARTICLE 12 – REMOVAL OF MEMBERS

If a Panel member is no longer able to meet the specified responsibilities, that member shall so advise the CSA and shall resign from the Panel. If the Panel forms the view that a Panel member is not meeting the specified responsibilities or has breached expected ethical and professional standards of conduct, the Panel shall be free to remove the member from the Panel.

ARTICLE 13 – THE RESPONSIBILITIES OF THE CSA

The CSA will provide guidance to the Panel on relevant processes and will assist the Panel in its duties as appropriate. The CSA will also respond to all official communications from the Panel.

ARTICLE 14 – REVIEW BY THE CSA

The CSA may review the activities of the Panel as often as it deems necessary. The CSA may, at any time, revise or rescind the Panel’s mandate or these Terms of Reference.

ARTICLE 15 – CROSS-REFERENCE

The Terms of Reference should be read and interpreted in conjunction with CSA Staff Notice and Request for comment 11-343 *Proposal to Establish a CSA Investor Advisory Panel*.