FAIR Canadian Foundation *for* Advancement *of* Investor Rights
Fondation canadienne *pour* l'avancement *des* droits *des* investisseurs

CANADIAN CENTRE FOR ELDER LAW

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"REPORT ON VULNERABLE INVESTORS: ELDER ABUSE, FINANCIAL EXPLOITATION, UNDUE INFLUENCE AND DIMINISHED MENTAL CAPACITY"

With Canada's rapidly aging population, issues of elder abuse and mental incapacity are on the rise in Canada. Canada's investment industry needs to do more to prepare for and respond to the needs of vulnerable investors, many of whom are seniors. In a joint report released today, **FAIR Canada and the Canadian Centre for Elder Law ("CCEL")** make six recommendations for change.

"We call on securities regulators, and the investment industry to really engage on these issues. Older Canadians, advocates and the investment industry have told us they all support having a conduct protocol in place which balances investors right to make their own choices, with the reality that investment firms are in a unique position to prevent or stop financial exploitation of vulnerable investors or respond to help those who show signs of diminished mental capacity", says Marian Passmore, COO and Director of Policy at FAIR Canada, and a co-author of the report.

"These recommendations are designed to help the investment industry play a critical role in abuse prevention. Right now, they are 'damned if they do, and damned if they don't' report suspected financial abuse. Financial service providers are worried that if they report their concerns they will face liability or regulatory sanctions for breach of privacy or for not following client instructions. If they do not report, they fear getting sued for that too", says Laura Tamblyn Watts, Senior Fellow and Staff Lawyer at the CCEL, and a co-author of the report.

The report makes six recommendations to Canadian Securities Regulators:

1. Require investment firms to make reasonable efforts to obtain the name and contact information of a Trusted Contact Person for each client, who can be contacted in case of suspicion of abuse or diminished mental capacity, so long as they themselves are not suspected of financial abuse or exploitation of the client.
2. Allow authorized individuals within an investment firm to place a Temporary Hold on Trades and Disbursements of funds or securities when there is a reasonable suspicion of financial abuse – that has occurred, is occurring or will be attempted – or where the client has lost the capacity to provide instructions.
3. Provide a Legal Safe Harbour for investment firms and financial service providers who reach out to appropriately report suspicions of financial abuse or mental incapacity.
4. Create a Conduct Protocol that defines key terms and sets out the steps firms and financial services representatives should take to identify and

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protect vulnerable clients. This Conduct Protocol will require that investment firms mandatorily report suspected financial abuse of vulnerable investors to the appropriate securities regulator.

5. Mandate Specific Education and Training for all investment firms in the areas of elder abuse, undue influence, mental capacity issues, enduring powers of attorney and ageism and have the required proficiencies.
6. Require that Investment Firms Become Familiar with Outside Resources and Responders and learn how and when to appropriately refer a case of suspected elder financial abuse, undue influence or diminished mental capacity to local responders.

The joint report has been prepared with funding provided by the Law Foundation of Ontario Access to Justice Fund.

See Quick Facts about Elder Abuse, Financial Exploitation and Undue Influence.

See the case studies of the most common scenarios used in the consultation process.

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